S. HRG. 104-543

PUBLIC ACCESS TO GOVERNMENT INFORMATION IN THE 21ST CENTURY

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Public Access to Government Informa... 'INGS

BEFORE THE

COMMITTEE ON RULES AND ADMINISTRATION UNITED STATES SENATE ONE HUNDRED FOURTH CONGRESS SECOND SESSION

ON

PUBLIC ACCESS TO GOVERNMENT INFORMATION

IN THE 21st CENTURY



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JUNE 18 AND 19, JULY 16 AND 24, 1996

Printed for the use of the Committee on Rules and Administration



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U.S. GOVERNMENT PRINTING OFFICE

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WASHINGTON: 1996

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PUBLIC ACCESS TO GOVERNMENT INFORMATION IN THE 21st CENTURY

TUESDAY, JUNE 18, 1996

U.S. SENATE,
COMMITTEE ON RULES AND ADMINISTRATION,
Washington, DC.

The Committee met, pursuant to notice, at 9:12 a.m., in Room SR-301, Russell Senate Office Building, Hon. John W. Warner, chairman, presiding.

Present: Senators Warner, Ford and Pell.

Staff Present: Grayson Winterling, Staff Director; Edward H. Edens IV, Special Assistant to the Chairman; Bruce E. Kasold, Chief Counsel; Jennifer Joy Wilson, Special Adviser to the Chairman; Virginia C. Sandahl, Chief Clerk; Mary Louise Faunce, Administrative Assistant to the Staff Director; Kennie L. Gill, Democratic Staff Director and Chief Counsel, and John L. Sousa, Democratic General Counsel.

The CHAIRMAN. Good morning, ladies and gentlemen. First of all, I apologize for my tardiness, particularly to my distinguished ranking member and our colleague from Rhode Island, but Secretary Perry is over meeting with a group of us in the Armed Services Committee, and we have to bring up our bill this morning at 10 o'clock, so that necessitated a brief delay on my part, and I thank you for your indulgence.

Today we begin the first in a series of hearings on "Public Access to Government Information in the 21st Century." This committee has authorizing jurisdiction over Title 44 of the U.S. Code dealing with Government publishing and distribution to the public of information generated by all three branches of the

Federal Government.

This part of Title 44 is administered by the Government

Printing Office, GPO, an agency of the Congress.

The committee's objectives for this hearing series are to: (1) ensure continued public access to Government information; (2) encourage technological advances for even broader public access without creating a society of information "haves" and "have-nots"; and (3) bring Title 44 into the 21st century with a minimum cost to the taxpayers. This includes reviewing the printing, procurement and compliance issues in Title 44.

I want to thank my distinguished colleague from Kentucky, Senator Ford, for his long interest in this subject and knowledge which he will bring to bear on the responsibilities of this committee with respect to such revisions of 44 as we may think are necessary.

GPO administers the Federal Depository Library Program—a public "right to know" initiative that is largely established on Jefferson's and Madison's premise that an informed citizenry is

the only basis on which democracy can flourish.

Thomas Jefferson said in 1820: "I know of no safe depository of the ultimate powers of the society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform their discretion by education."

Congress laid the foundation for the dissemination of Government information to the public in the early part of the 19th century. The Government Printing Office was created nearly 140 years ago, and the precursors to Title 44 of the U.S. Code were enacted in the late 1870's.

However, Title 44 was created for a paper-based society. Advances in just the past 5 years have dramatically changed how information is produced, circulated and stored. With the advent of a new millennium, we must anticipate even more significant change in the way the average American communicates and receives information.

Any Federal employee with a PC is theoretically a Federal information producer. But the fundamental issue is who decides what is "official" Government information and who has access to it. This is a serious issue that must be addressed without

jeopardizing in any way the advancement of technology.

Last Congress, the Legislative Branch Appropriations bill mandated that GPO conduct a study on a "Successful Transition to a More Electronic Federal Depository Library Program." This study is being prepared in final at this time. The premise of the study was to determine how to disseminate Federal information electronically—rather than the traditional print/paper copy—to the depository libraries, and to do so as rapidly as possible. The issues surrounding this study are the focus of today's hearing.

There appears to be consensus that more Government information should be disseminated electronically. Preliminary findings of the study show divergence on how much information should be in solely electronic form rather than on paper; how fast depository libraries can accept electronic information; and how the average American can access this information. Furthermore, there is divergence on the costs of this transition and who should be responsible for those costs.

As a student at Washington and Lee, I hit the books at the James G. Leyburn Library—a depository library since 1910. Presently, there are 37 depository libraries in the Commonwealth of Virginia. In preparation for this hearing, I asked that these librarians from throughout the State provide me their views on the GPO study as well as the efficiency of the depository program. I ask that these views be included as part of the hearing record. I wish to publicly thank them now, and say that I greatly appreciate the time and effort on the part of these librarians.

[The information is included as Appendix A1.]

The CHAIRMAN. I must say that I worked my way through University of Virginia Law School by working in the library at one dollar an hour.

Senator FORD. Is that why you are so articulate?

The CHAIRMAN. No. I do know the Dewey Decimal System, but I guess that is going to be wiped out.

Senator FORD. Just retain that; it will be helpful at some point. The CHAIRMAN. As we begin this series of hearings on Title 44, it is my fundamental objective that as we encourage technological advances which lead to even broader public access, we are ever so cautious not to develop, even

inadvertently, an "information caste system" where only the better-educated or economically well-off have access.

With this objective in mind, I close with another quote from Thomas Jefferson: ". . . I know also, that laws and institutions must go hand-in-hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made . . . institutions must advance also, and keep pace with the times."

Î now yield to my distinguished colleague from Kentucky.

Senator FORD. I thank the chairman, and I want to commend him for holding these hearings on Title 44 and the Federal

Depository Library System.

I would say to my friend that while this topic may not be on the front page of tomorrow's newspapers, it is vital to the continued health of a great democracy. And, to paraphrase a great Virginian and American, Mr. Chairman, Thomas Jefferson: "If we are to remain free, it is the responsibility of every American to be informed"—and our responsibility is to assist them with that information, in my judgment.

Since the creation of a Depository Library Program for congressional materials in 1813, Congress has ensured that the American public remain informed by the dissemination of free—and I underscore "free"—uncopyrighted Government information. Congress extended the depository policy to other Federal materials in 1857 and, in 1869, created the position of Superintendent of Public Documents, then housed with the Department of Interior.

The Printing Act of 1895 relocated the Superintendent of Public Documents to the Government Printing Office. The jurisdiction of this committee over the Government Printing Office dates to 1946, when the duties of the Committee on

Printing were transferred to this committee.

Ensuring that the American taxpayer continues to have access to the information that makes him or her an "informed" citizen is in my mind one of the most important responsibilities of this committee. The greatest challenge this committee faces is harnessing the technology of the 21st century to enhance the ability of our constituents to remain an informed public.

There can be no question that technology which allows us to electronically disseminate Government information directly to the homes of Americans can only strengthen our democracy.

I have seen the new worlds that computers and technology have opened to my grandchildren, and I want to ensure that they and all Americans have access to the fullest range of information.

I would say to the chairman that when a 10-year-old can e-mail his grand-daddy from Owensboro, Kentucky to Washington, D.C., things have changed considerably since I was a child.

The CHAIRMAN. And you are the grand-daddy?

Senator FORD. Yes, I am the grand-daddy. I do not know how to get the e-mail back to him yet.

[Laughter.]

The ČHAIRMAN. That is a great confession.

Senator FORD. Well, I have gotten the last words, "DOT

COM," and I am beginning to work back.

Our challenge is to ensure that access to the technology does not create a society of information "haves" and "have-nots." Congress intentionally avoided that result when it created the Depository Library Program. Let me repeat that, Mr. Chairman—a society of information "haves" and "have-nots." Congress intentionally avoided that result when it created the Depository Library Program.

Depository libraries ensure that all Americans, regardless of income or ability, can access Government information on a no-fee basis. Mr. Chairman, before these hearings are over, we will find that many of our constituents will be paying twice for the information they ought to have only paid for once, through

their taxes.

It is one of the most efficient Government partnerships that exists. That same program has the ability to ensure that as we move into the 21st century, those without access to new

technology can still remain informed.

As the chairman knows, in 1993, this committee passed the GPO Electronic Access Act. My goal in that legislation was to begin to move the dissemination of Government information into the 21st century through the electronic format. That program is up and running and is used by ordinary citizens trying to keep informed in depository libraries every day.

It is the responsibility of this committee, in my opinion, to ensure that as more and more Government information is made available electronically, all citizens can take advantage of it. The

Depository Library System can ensure that it does.

While I am encouraged by the support of the Appropriations Committee in moving information dissemination into electronic formats, I am concerned that there are numerous issues that must be addressed in a reasonable—and I underscore "reasonable"—time frame. These hearings will bring those issues to light and allow this committee to make recommendations as to how to ensure that Title 44 and the Depository Library Program continue to ensure and inform citizenry.

Mr. Chairman, I ask unanimous consent that letters from you and me to Senators Hatfield and Byrd be included in the hearing

record.

The CHAIRMAN. Without objection.

[The letters are included as Appendix A2.]

Senator FORD. I thank the chairman again for his interest in this topic.

The CHAIRMAN. Thank you, Senator Ford. I am simply carrying on the work that you and Senator Stevens initiated some time back.

We are privileged to welcome our senior Senator from Rhode Island. Senator Pell?

Senator PELL. Thank you, Mr. Chairman.

Once again, I compliment you for continuing this series of hearings on matters under the jurisdiction of our committee, this time on the national Depository Library Program as it approaches the critical time of transition in its history.

Clearly, the advent of the electronic era poses fundamental challenges to the Depository Library Program. Indeed, its actual survival could be at stake. So it is appropriate that our committee consider the whole question of public access to Government

information in the 21st century.

The Report on Measures Necessary for a Successful Transition to a more Electronic Federal Depository Library Program provides an excellent basis for our consideration. I might say that I find the most reassuring word in the title of the report is the word "more" because it indicates that we are not

contemplating a totally electronic depository program.

I am particularly pleased that one of our witnesses is Daniel O'Mahony of the Brown University Library in Providence, Rhode Island, chairman during the past year of the Depository Library Council, the national advisory board to the Public Printer. Mr. O'Mahony brings the valuable perspective of the hands-on librarian who, day in and day out, guides the public user, scholar, researcher, through the labyrinth of Government, whether in electronic or printed format. We have him to thank for a realistic view based on experience, and with it, a few words of caution.

I would ask unanimous consent that the balance of my statement be inserted in the record, together with a letter from

the Consortium of Rhode Island Academic and Research Libraries.

The CHAIRMAN. Without objection. [The prepared statement of Senator Pell follows:]

PREPARED STATEMENT OF HON. CLAIBORNE PELL, A SENATOR FROM THE STATE OF RHODE ISLAND

Mr. Chairman, once again I compliment you for continuing this series of hearings on matters under the jurisdiction of this committee, this time on the National Depository Library Program as it approaches a critical time of transition in its history.

Clearly, the advent of the electronic era poses fundamental challenges to the Depository Library Program—indeed its very survival could be at stake. So it is very appropriate that this committee consider the whole question of public access

to government information in the 21st Century.

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I am especially pleased that one of our witnesses here today is Mr. Daniel P. O'Mahony of the Brown University Library in Providence, Rhode Island, and chairman during the past year of the Depository Library Council, a national

advisory board to the Public Printer.

Mr. O'Mahony brings the valuable prospective of the hands-on librarian who day in and day out guides the public user, scholar and researcher through the labyrinth of government data, whether in electronic or printed format. We have him to thank for a realistic view based on experience, and with it a few words of caution.

In that connection, I would like to submit for the record a letter from the Consortium of Rhode Island Academic and Research Libraries, of which Brown University is a member, supporting the overall goal of moving towards electronic dissemination of government information, but expressing some major concerns about the pending proposals.

These concerns include, among others cited:

· the short time table

- · increased costs to libraries and the public
- · rapidly changing technologies

· inconsistent standards

· archiving electronic files for the future

I hope these hearings will provide clarification and perhaps a measure of reassurance with respect to these and other questions. The advance of technology has presented the program with some monumental challenges and I commend the Public Printer and all who are involved, including the chairman of this committee, in trying to chart a reasonable course for the future.

[The letter is included as Appendix A3.]

Senator PELL. Thank you, Mr. Chairman. The CHAIRMAN. Thank you, Senator Pell.

The CHAIRMAN. Now, Mr. Kelley. Mr. Kelley was named Superintendent of Documents to the U.S. Government Printing Office in 1991. He is a former publisher of the Congressional Quarterly and a journalist with more than 30 years of newspaper and magazine experience.

Mr. Kelley is in charge of an operation that maintains some 12,000 Federal Government titles and processes more than 5,500 mail orders daily. In addition, 20.2 million publications were

distributed in FY '95 to the Nation's 1,386 depository libraries. At the direction of the Public Printer, Mr. DiMario, Mr. Kelley also served as chairman of a congressionally-mandated study to determine the best methods of delivering Federal Government electronically to citizens utilizing local depository libraries.

Mr. Kelley, that is a very impressive record. Could you determine whether or not you can send your grandson an e-mail

before you start off?

Mr. KELLEY. I cannot at this point. I have no grandson.

[Laughter.]

The CHAIRMAN. Welcome, Mr. Kelley. We are delighted to have you before the committee again.

TESTIMONY OF WAYNE P. KELLEY, SUPERINTENDENT OF DOCUMENTS, U.S. GOVERNMENT PRINTING OFFICE, WASHINGTON, D.C.

Mr. KELLEY. Good morning.

Mr. Chairman and members of the committee, thank you for this opportunity to testify about an important and endangered American institution—the Federal Depository Library Program.

The program was created by Congress to promote public knowledge of Government activities. It traces its roots back 183 years, when congressional materials were first deposited at certain libraries for public inspection.

Today the program is a partnership between the Government and some 1,400 libraries in communities throughout the Nation—public libraries, academic libraries, law school

libraries, Federal and State Government libraries.

The U.S. Government Printing Office supplies copies of publications from all three branches of Government. Depositories house the documents and provide staff to citizens to give them free access to the information. There are 53 regional libraries, each State in the country being served by one. These regional libraries permanently retain all Government documents provided, and I would like to underscore that word "permanent." That is our Nation's only guarantee of continued free public access to a vast storehouse of Government information. Nowhere else in the law or in practice is there provision for permanent, no-fee public access to Federal information.

The program is efficient. Last year, some 20 million copies of publications were distributed at a cost of just over \$1 per copy. Libraries contribute resources valued at some four to five times the value of the information they receive.

The program is effective. Dedicated professional librarians assist millions of Americans each year in locating print and electronic information for business, for education, personal needs, and evaluating the performance of our Government.

It is not political or subject to censorship. For 101 years, since the landmark Printing Act of 1895, responsibility for the program has rested with the elected representatives of the people in the legislative branch. There is a depository library in nearly every congressional district to directly serve all types of users and local library settings. The conservative estimate is that 10 to 12 million American citizens use these libraries annually.

The Depository Library Program continues to change to take advantage of electronic technology. Under the GPO Access Law passed by Congress in 1993, the public is getting a rapidly expanding list of publications delivered free-of-charge over the Internet. Users are downloading documents at the rate of more than 2 million per month. We are taking initiatives for a successful transition to a more electronic depository library program, and a congressionally mandated study of this transition was just completed; copies are available here this morning.

This program, serving the needs of a democratic society for an informed electorate, is more important today than ever before, but it is in real jeopardy because content is being bled from the program—first, a trickle; then, a steady stream—until the fundamental supporting principle of free, equitable access to

Government information is itself in danger.

Until recently, Government agencies generally focused attention on carrying out their missions. Publications and collections of information were predominantly the byproducts of their work. Few agency publishers sought to control access to or reuse of their information. Copyright on Federal information produced at taxpayer expense was prohibited. Information was in the public domain, available to everybody. But today, dangerous new precedents are being set. Government information produced by Government employees, at taxpayer expense, is being turned over to certain groups who are given exclusive distribution rights. These groups are establishing copyright or copyright-like controls.

Here is an example. The Commerce Department recently published a 480-page, 4-color book titled, "The Big Emerging Markets." I have a copy here. The introduction says: "The big emerging markets are a key focus of our national export strategy, and success there will largely determine the United States'

position as the world's economic leader."

The book lists U.S. and foreign trade contacts for American businessmen, but you will not find it in the Depository Library Program. All the editorial and design work was done by employees of the U.S. International Trade Administration of the Commerce Department at Government expense. The names of 135 Government workers are listed as contributors. But the Commerce Department asserts it is not a Federal Government document. It was printed by a private sector publisher under an exclusive agreement with the National Technical Information

Service, a Commerce Department agency. An introductory page states that "Big Emerging Markets" contains copyrighted material, but there is no specific designation of what information is subject to copyright, making it impossible for anybody to reproduce it without a lengthy discussion and seeking permission.

The books contains four pages of advertisements for other

books from the publisher.

This book deal would seem to violate current Federal information policy. On June 25, 1993, the Office of Management and Budget issued a revised Circular A-130 on the management of Federal information resources. OMB told agencies to avoid establishing or permitting others to establish on their behalf exclusive, restricted or other distribution arrangements that interfere with the availability of information dissemination products in a timely and equitable manner. OMB also directed agencies to ensure that Government publications are made available to depository libraries through the facilities of the Government Printing Office as required by law. NTIS refused to supply depositories print copies, offering microfiche instead. Microfiche of a book containing four-color graphs is unusable.

This book deal hits taxpayers three times—first, for the cost of the large number of Government employees who worked on the book; second, in the pocketbook, for those who purchase a glossy copy at an inflated price—this book costs \$44—and third, when citizens walk into their local depository library and find either no copy or a copy the locally-supported library had to

purchase with local tax dollars.

There are many other examples of agency actions removing Government information from both the public domain and the Depository Library Program. Current population reports from the U.S. Bureau of Census are vital, frequently-used reference materials in all of the Nation's libraries. Depository librarians recently asked GPO to help them obtain copies of a new book, "The Hispanic Population of the United States, March 1994." This is the most recent volume in a series of Census publications called the P-20 Series which have routinely been available to the depository program. Despite some verbal pre-publication assurances from the Census Bureau, the book was not made available to depositories. We found out that it had been published under a different title by a Washington-based trade association. The Census Bureau provided data, staff assistance and research help.

Publication of the book was funded by Philip Morris Companies, Inc. The Philip Morris corporate logo and a list of its companies was on the second page, next to the Bureau of Census

logo.

Copyright to this book is held by the trade association, and no material in the book can be reproduced or distributed without permission. Cost of the book including handling and postage is \$15. Had it been produced by GPO, the book would have cost \$3.50 for anyone who wanted to buy a copy, and it would have been sent without charge to depository libraries for free access to the public.

Government agencies turning over their publications to trade associations or other special interest groups would seem to create the potential for serious conflicts of interest, especially of the agency provides the time and assistance of its employees and then permits the special interest group to obtain copyright over the material.

Vital and valuable Federal information is being transferred from the public domain to organizations with exclusive distribution rights at an alarming rate. McGraw-Hill, a large private sector publishing company, issued a press release on May 14, 1996, announcing that it had signed an agreement with NTIS to publish the popular "U.S. Industrial Outlook" and collaborate on a multitude of information products and services. For 35 consecutive editions, "U.S. Industrial Outlook" has been published by the Commerce Department. The information was in the public domain and free for reuse by anyone, including other private sector publishers. Its forecasts are widely used by American businessmen, scholars, researchers and by the media. In a prospectus circulated late in 1995, NTIS said that it would provide "appropriate copyrights" to any private sector partner selected. Government employees apparently will write forecasts for some industries, and McGraw-Hill will write forecasts for others. It is not possible for me to say for certain. When I asked NTIS for a copy of the NTIS-McGraw-Hill agreement, I was told that it was not available because "it may be confidential." Nor would it be possible to get the information by attending the NTIS Advisory Board meeting held yesterday at NTIS headquarters in Springfield, Virginia. According to the Federal Register notice of the June 17th meeting, it was closed to the public because—and I quote-"premature disclosure of the information to be discussed would be likely to significantly frustrate implementation of NTIS business plans.

Is this the future? Government agencies entering into secret agreements and meeting behind closed doors to decide what information citizens will get and the terms and conditions under

which the public may have it?

Electronic information is just as likely to disappear from the depository program and from the public domain as is print information. On April the 1st, 1996, the staff of the Office of Export Services, a Commerce Department agency, informed us they had awarded a \$100,000 contract to NTIS to make a database of the United States Export Administration regulations. These regulations are vital to businesses in the United States for exporting their goods. Despite repeated requests, that database will not be available free to the public through the Depository

Library Program. NTIS is selling it to taxpayers, who paid for it in the first place, at an annual fee of \$250.

Unless appropriate safeguards are established, the Government's most valuable and marketable information may quickly disappear from the public domain. Special interest groups may control what citizens know about Government activities. Federal workers may be used to subsidize private publishers.

Under longstanding regulations, Government agencies must get waivers from the Joint Committee on Printing to publish glossy 4-color books. The idea is what when the Government gathers useful information, it should publish it at low cost in no-frills documents. Agencies are now finding ways to evade oversight policies and provisions of the present law. If any changes in law are contemplated, they should be strengthened. The public should be protected against any attempt to use loopholes and taxpayer dollars for the purpose of creating a "Vanity Press" of eye-catching publications promoting an agency or touting the accomplishments of high-level officials.

Mr. Chairman, Government information should have

integrity.

I sincerely hope that the members of this committee will continue to support the Federal Depository Library Program and the historic principles of Federal information policy which stand as its foundation—that the public has a right to free and equitable access to Government information; that information created or compiled by Government employees or at Government expense should remain in the public domain, and that Government has an obligation to guarantee the authenticity, integrity and preservation of this information.

Mr. Chairman, thank you very much for this opportunity to

testify.

[The prepared statement of Mr. Kelley follows:]

PREPARED STATEMENT OF WAYNE P. KELLEY, SUPERINTENDENT OF DOCUMENTS, U.S. GOVERNMENT PRINTING OFFICE

Mr. Chairman and Members of the Committee, thank you for the opportunity to testify concerning the role of the Federal Depository Library Program (FDLP) in ensuring public access to Government information, both today and in the 21st century. The Founding Fathers recognized the importance of an informed electorate to our Nation during the earliest years of our democracy. In 1822 James Madison said:

A popular Government, without popular information, or the means of acquiring it, is but a prologue to a farce or a tragedy. Knowledge will forever govern ignorance, and a people who mean to be their own governors, must arm themselves with the power that knowledge gives.

Informing the Nation has been a fundamental responsibility of our Government since its founding. For example, Article I of the Constitution calls on Congress to keep and publish a journal of its proceedings, a function that the Government Printing Office (GPO) still assists. By linking GPO's printing operations with the distribution function, Congress ensured that the comprehensive body of information produced at public expense would be made available for public use. The FDLP, administered by the Superintendent of Documents in GPO, thus serves as

the popular "means of acquiring" Government information that Madison spoke of.

For over 100 years the FDLP has served the American public as the principal guarantor of their right to be informed about the activities of their Federal Government. By making a broad range of Government publications available locally, in libraries in virtually every Congressional district, the FDLP enables the public to have ready access to information of interest to them, and ensures that the information is preserved for use by future generations. The GPO, as the administrator of the FDLP, has forged a long and successful partnership with the Nation's nearly 1,400 depository libraries. Together we have provided equitable, efficient, timely, and dependable no-fee public access to Government information

Numbers and Characteristics of FDLP Users

The FDLP continues to be a principle mechanism to meet the Government information needs of the American public. The most thorough study1 of depository library users estimated that in 1989 there was "a minimum of 167,000 users, per week, of Government depository material in academic and public libraries." These users were "highly educated and split almost evenly by gender" and primarily identified themselves "as students or in professional or managerial occupations." Last year GPO, in the context of the 1995 Biennial Survey of depository libraries, collected updated estimates on the number of users of depository libraries. The Biennial Survey responses, from virtually every depository library, estimated that 189,000 to 237,000 persons used FDLP information each week.

In addition, Americans are also electronically accessing free Government information available from the U.S. Government Printing Office (GPO) at a rapidly growing rate. Since December 1, 1995, when the GPO Access online service was made available to the public at no charge, users have downloaded an average of 2 million documents per month from 58 databases. Such titles as the Congressional Record, the Federal Register, congressional bills, and a growing list of government documents are available on the same day of publication. Most are available in both ASCII text, which permits the use of assistive technologies by disabled users, and Adobe Acrobat Portable Document Format (PDF), which allows users to view and print exact facsimiles of the printed version of these documents.

Study to Identify Measures Necessary for a Successful Transition to a More Electronic FDLP

Today, emerging technologies present both tremendous opportunities for, and serious challenges to, our ability to improve and enhance public access to Government information. These opportunities and the challenges must be met by respecting the enduring core values of the FDLP, while recognizing where improvements can be made and economies realized. Some of these challenges require the careful enhancement of the FDLP in order to take advantage of the new opportunities and minimize the potential for disruption in public access during this period of rapid change. Last August, GPO, at the direction of Congress, initiated a cooperative study to identify measures necessary for a successful transition to a more electronic FDLP. The study was concluded in March 1996, and a draft Study Report was released for public comment. We considered each of the many comments which we received, and incorporated them into the final Study Report, which was issued this month.

To implement the study, the Public Printer established a working group consisting of representatives from GPO, appropriate Congressional committees, the Congressional Research Service (CRS), the Office of Management and Budget (OMB), the National Archives and Records Administration (NARA), the Federal

McClure, Charles R., and Hernon, Peter, "Users of Academic and Public GPO Depository Libraries", Washington, DC, U.S. Government Printing Office, 1989.

Publishers Committee (FPC), the Interagency Council on Printing and Publication Services (ICPPS), the Administrative Office of the U.S. Courts, and the depository library community. He also invited a number of organizations to identify representatives to serve as advisors to the working group.

Preliminary Transition Plan

Separately, a document entitled "The Electronic Federal Depository Library Program: Transition Plan, FY 1996—FY 1998" was developed by GPO and included with our FY 1997 appropriations request. The budget-driven Transition Plan had to be completed prior to much of the work on the Study due to the timetable for annual budget submissions. This early version envisioned an aggressive approach to changing the FDLP to a predominantly electronic program in 2.5 years. The Transition Plan was very useful to GPO in eliciting public comment on these issues, and several major themes surfaced.

The first of these was that a 2.5-year transition period was far too fast, and exceeded the ability of the depository libraries, the publishing agencies, and the public to properly use or support this volume of electronic information. Input from publishing agencies and depository libraries indicated that a 5 to 7 year transition is more realistic and cost-effective since it would allow GPO to change to electronic information as rapidly as the publishing agencies can produce it and the libraries can absorb it. It would be substantially more costly for GPO to convert agency print publications to electronic formats than it would be to work in partnership with the agencies, assisting them in accelerating their own electronic publishing initiatives. Second, the needs of users for appropriate information product formats, suited to the intended audience and usage of the products, may have been undervalued. And third, the 2.5-year Transition Plan did not incorporate adequate measures to ensure permanent preservation of and public access to electronic information products. The public comments in response to the Transition Plan provided useful data to the study participants, and led directly to the development of the Strategic Plan that is included in the June 1996 Study Report.

Study Report: Strategic Plan

The Strategic Plan included in the Study Report proposes a more gradual transition, during the period from FY 1996 through FY 2001. The Strategic Plan builds upon the strengths of the existing program, while incorporating electronic information technologies. Emphasizing the incorporation of electronic information into the FDLP, the Strategic Plan will affirmatively move the FDLP toward a significantly more electronic information dissemination and access program. This Plan reflects the views and advice of the library community, Federal publishing agencies, and users of Government information. These views extend from the more realistic timetable, to increased emphasis on appropriate formats and

the necessity for permanent public access to electronic information.

Under the Strategic Plan, the FDLP will provide official Government information products in a variety of formats to the Nation's nearly 1,400 depository libraries. Incorporating electronic Government information into the FDLP will augment the traditional distribution of tangible products with connections to Government electronic information services such as Internet sites. Electronic information will be accessible to the public directly or through depository libraries from a system of Government electronic information services administered by GPO, other Government agencies, or institutions acting as agents for the Government. The FDLP will identify and connect users to electronic information services of other agencies or, when appropriate, obtain electronic source files from agencies for mounting on GPO Access. Tangible Government information products will be distributed to libraries, including CD-ROMs, diskettes, paper, or microfiche, as appropriate to the needs of users and intended usage.

Permanent access to Government information is a critical issue in the electronic environment. GPO should, through the mechanism of the FDLP, ensure that electronic Government information products are maintained for permanent public access, in the same spirit in which regional depositories provide permanent access to print products. This requires the development of a system which in-

cludes all of the institutional program stakeholders: information producing agen-

cies, GPO, depository libraries and NARA.

Effective public use of Government information, especially in the less-structured environment of the Internet, depends on the users' ability to identify and locate the desired information. Through continuation of its cataloging services, and the development of the Pathway information locator services, GPO will meet this need. GPO will present a suite of services, designed for use by the public as well as by depository librarians.

Funding Requirements

Significant progress toward a more electronic FDLP can be made by the end of FY 1998 with essentially flat funding. For the out years, FY 1999 and beyond, there are too many variables involved to accurately project program funding requirements at this time. GPO's FY 1997 funding request of \$30.8 million for the Superintendent of Documents Salaries and Expense Appropriation assumes that some FDLP expenses, especially those associated with acquiring and shipping printed products, will decline as the use of electronic information dissemination technologies increases. However, there will be offsetting cost increases in other areas, such as expanding the capacity of the GPO Access system, acquiring and converting electronic source data files, and CD-ROM software licensing fees.

FDLP Principles, Mission, and Goals

During the course of the Study there was considerable discussion concerning the mission, goals, and values of the FDLP. These discussions led to the articulation in the Study Report of the principles for Federal Government information, as well as the Program's mission and goals.

GPO's tactical and strategic planning for the future of the FDLP, as well as the work on the Study Report, was guided by a set of fundamental principles regarding Federal Government information. This statement of principles closely follows the "Principles for Public Information" developed and published by the National Commission for Libraries and Information Science (NCLIS):

- 1. The Public Has a Right of Access to Government Information Access to Government information, except where restricted by law, is a basic right of every American citizen. Open and uninhibited access to Government information ensures that the public has the opportunity to monitor and participate in the full range of Government activities.
- 2. The Government Has an Obligation to Disseminate and Provide Broad Public Access to its Information

The Government should encourage public participation in the democratic process and use of Government information through proactive dissemination efforts that ensure timely and equitable public access.

3. The Government Has Obligations to Guarantee the Authenticity and Integ-

rity of Government Information

These obligations, which are met in well-established ways in the print world, pose difficult issues in the electronic information environment.

4. Government Has an Obligation to Preserve its Information
Preservation and permanent public access are vital components of the
national historical record. Preservation should be considered from the
earliest stages of the information life cycle.

5. Government Information Created or Compiled by Government Employees or

at Government Expense Should Remain in the Public Domain

Use or re-use of government information should not be diminished by copyright-like restrictions, which serve to reduce the economic benefits, or "multiplier effects" associated with unrestricted usage.

Within these broad principles, the study identified the mission for the FDLP as: The mission of the FDLP is to provide equitable, efficient, timely, and dependable no-fee public access to Government information within the scope of the program.

The Strategic Plan included in the Study Report incorporates several different

goals to measure the successful performance of this mission:

1. Ensure that the public has equitable, no-fee, local access to Government information through a centrally managed, statutorily authorized network of geographically dispersed depository libraries.

Use new information technologies to improve public access to Government information and expand the array of Federal information products and services

made available through the FDLP.

3. Provide Government information in formats appropriate to the needs of users and intended usage.

4. Enable the public to locate Government information regardless of formats.

5. Ensure both timely, current public access and permanent, future public access to Government information at or through depository libraries, without copyright-like restrictions on the use or reuse of that information.

6. Facilitate preservation of Government information through NARA. This includes the transfer to NARA of information disseminated to depository librar-

ies or held by GPO for depository library access.

7. Ensure that the program is cost-effective for all parties involved, including Government publishing agencies, GPO, depository libraries, and the public. Study Conclusions

In addition to the conclusions outlined in the Study Report, strong support emerged in the working group discussions over two major issues concerning the FDLP as a whole. The first issue concerned the value of having the authority for a broad-based public information program rest in the Legislative Branch. Nearly all of the participants felt that this model has served the public well. High value was placed on the presence of the FDLP in every Congressional district, to directly serve the public in local library settings. The authority for distributing Government information to libraries was initially vested in the Executive Branch, first with the Secretary of State, and later with the Department of the Interior. However, 101 years ago, with the landmark Printing Act of 1895, Congress transferred the Office of Superintendent of Documents to GPO from the Department of the Interior, thereby establishing the responsibility for the "means of acquiring" popular public information with the elected representatives of the people.

There was also strong support for the value and utility to the library community of having a single entity in the Superintendent of Documents to coordinate library-related information dissemination activities. The depository library community has consistently affirmed the utility and cost-effectiveness of a "one stop shopping" approach to acquiring Government information. At the same time, centralizing this responsibility within GPO has fostered a relationship with the library community marked by enhanced communications and responsiveness to library and public information needs. In the study discussions nearly all of the participants agreed that it is not only possible but desirable to increase the dissemination of electronic information to depository libraries within the overall structure of current law and program operations, and that having a central entity to assist libraries and the public in accessing electronic Government information

in a distributed environment is more vital now than ever.

Other key findings included the following:

1. Scope of the FDLP: There is widespread interest in expanding the content of the program to make it more comprehensive, and a great deal of optimism that the rapid expansion of agency electronic publishing offers cost-effective options to do so. Nevertheless, the highest priority remains the retention of information content that historically has been in the program and is rapidly leaving it as agencies move from print to electronic publishing or eliminate information products to reduce costs.

2. Notification and Compliance: Historically, the FDLP has relied heavily on the ability of the program to automatically obtain material as it was printed or procured through GPO. With the growing emphasis on electronic dissemination, and decreasing compliance with statutory requirements for agencies to print through GPO, identifying and obtaining information for the FDLP is becoming increasingly difficult. There must be new means to inform agencies of their responsibilities and to ensure compliance with agency FDLP obligations. In

addition, there must be effective means for all three branches of Government to notify GPO of the intent to initiate or publish a new information product, substantially modify an existing product, or eliminate products and services.

3. Permanent Access to Official and Authentic Information: The FDLP has always had the responsibility for providing permanent access to the official Government information disseminated through the program. Historically this has been the role of the regional depository libraries, and this has been a cost-effective means of ensuring that Government information remained available to the public indefinitely. Permanent access also is an essential element of the electronic depository library program, but it will be more difficult to attain. To ensure permanent public access to official electronic Government information, all of the institutional program stakeholders (information producing agencies, GPO, depository libraries and NARA) must cooperate to establish the authenticity of official information, provide persistent identification and description of Government information products, and establish appropriate arrangements for their continued accessibility. This includes establishing standard formats for dissemination and preservation and maintaining the technological currency of the data.

4. Locator Services: Together the Cataloging and Indexing Program required by 44 U.S.C. §1710 and §1711 and the Locator Services required by 44 U.S.C. §4101 provide the statutory basis for GPO to assist depository libraries and the public to identify and obtain access to the full range of Federal Government information. In an environment where libraries and users often are accessing remote electronic information rather than local collections, the tools for identifying and locating the information will become increasingly critical components of an effective

program.

5. Cost of Electronic Information Dissemination: While there are many benefits inherent in the use of electronic information, including more timely and broader public access, there is no conclusive data at this time to support the assertion that it will result in significant savings to the FDLP as a whole in the next few years. Based on information developed to date, electronic dissemination and access will shift the costs among the participants and will increase costs to the depository libraries and the public, at least in the short run. In addition, the migration to an increased use of electronic information technologies requires significant resources which, according to the Strategic Plan, are costs that the Government will incur when it assumes some of the responsibility currently held by regional libraries for ensuring permanent public access to Government information. Costs for migration can be minimized by the adoption and use of open systems standards through the entire life cycle of information products, from the time the original source files are created by the publishing agencies to final preservation by NARA. At the same time, depository libraries and their users will have to pay to print, or purchase printed copies, of information that is needed, but no longer disseminated, in print through the FDLP. Libraries also will have to provide specialized staff training, public access work stations, and the related services necessary to connect the public to remote Government information.

6. Assessment of Standards for Creation and Dissemination of Electronic Government Information Products: Use of electronic Government information products also can be enhanced by the greater utilization of standards in the creation and dissemination of information. Therefore, GPO is proposing an Assessment of Standards for Creation and Dissemination of Electronic Government Information through a joint effort with the National Commission on Libraries and Information

Science (NCLIS).

For the successful implementation of a more electronic FDLP, the Congress, GPO and the library community must have additional information about future agency publishing plans, as well as an expert evaluation of the cost-effectiveness and usefulness of various electronic formats that may be utilized for depository library dissemination or access. A central implementation issue is the identification and utilization of standards for creation and dissemination of electronic Government information products. These standards would enhance access to and use of Government information by both the Government and the public. The Government produces an enormous quantity and variety of information. The standards best suited for one type of data may be substantially less suited, or

even entirely inappropriate, for another. Consequently, there is no single standard in which all Government information products can, or should, be created or disseminated. Nevertheless, it is in the best interests of the Government, and those who use Government information, to achieve a greater degree of standardization than now exists, and to develop recommended standards for each major type of Government information product in order to facilitate the exchange and use of that information.

To accomplish this, it is first necessary to know the range of formats Federal agencies currently use in the creation and dissemination of information and to assess the defacto or actual standards that are in use for each major type of data. It is also necessary to identify areas where there is no standardization, or such limited standardization that the effect is virtually the same. Finally, it would be useful to evaluate standards utilized by private sector and other non-governmental publishers. This information will provide the basis for an assessment, in consultation with the depository library community, of the usefulness and cost-effectiveness of various electronic formats for depository library dissemination or access. It will also be the basis for a dialog with the National Archives and Records Administration (NARA), NCLIS, the National Institute of Standards and Technology (NIST), and others with an interest in establishing and promulgating Government-wide standards for information creation and dissemination.

Legislative Changes Which Support the Transition

Substantial changes in the FDLP already are underway within the structure of the existing statute. GPO has the necessary statutory authority to incorporate electronic Government information products into the FDLP. However, certain amendments to Chapter 19 of Title 44, U.S.C., which authorizes the FDLP, would clarify this authority and facilitate the transition. For example, it should be established without question that electronic Government information must be included in the FDLP, to establish authority and responsibility for the FDLP to ensure that both tangible and electronic Government information products are maintained permanently for depository library and public access, and to authorize the Superintendent of Documents to request that the originating agencies provide electronic source data files of their information products. Some suggestions for legislative changes, which incorporate the advice of various program stakeholders, are included in the Study Report.

OMB Proposes Draft Legislation

Recently, the Director of OMB transmitted to several Members of Congress proposed legislation titled "The Electronic Depository Library Act of 1996." We were provided with a copy of the proposal and have analyzed its provisions. Copies of our analysis were transmitted to the Chairman and ranking Member of this Committee.

As Public Printer, Michael F. DiMario stated in his review of this legislative proposal, several key provisions of OMB's proposal contrast sharply with the legislative direction contained in the Study Report. Although the current FDLP includes information from all three branches of Government, the OMB proposal would apply to the executive branch only. It would potentially circumscribe the type of information that would be made available to depository libraries. It would transfer policy oversight for electronic dissemination to depositories from the Superintendent of Documents (and by extension the Joint Committee on Printing) to agency Chief Information Officers (CIO's), who are accountable by law to OMB. It would allow agencies to make individual arrangements with depository libraries to pay for fee-based information services operated by agencies, and would set no limit on the fees, signaling a dramatic departure from the traditional principle of making Government information available to depositories without charge. It would effectively transform the National Technical Information Service (NTIS) of the Department of Commerce—which has no depository distribution authority and which could provide no guarantee of assuring equitable public access to any information it disseminates to depositories—into the executive branch's depository of final resort. It would also establish NTIS as the centralized point of access for executive branch information, in curious contrast to OMB's objection to the "centralized management model" currently operational

in the FDLP. While the OMB proposal is purportedly designed to improve depository access to electronic information, the enforcement mechanism it provides would be weak and ineffectual.

In our view, the most prominent shortcoming of OMB's proposal lies in the provisions regarding the dissemination of online services. Agency CIO's would make direct, individual arrangements with depository libraries for access to online services "in some suitable electronic format." Online services would be required to be listed in each agency's information locator service so that libraries could find them. This part of the bill seriously miscalculates the value and utility to the library community of having a single entity in the Superintendent of Documents to coordinate library-related information dissemination activities. Currently, GPO deals with hundreds of departments, agencies, bureaus, and offices, represented by approximately 4,500 billing address codes. To deal with a potentially vast number of online publishing entities in an increasingly distributed electronic environment, each of approximately 1,400 depository libraries would assume an enormous administrative burden without the presence of a central entity to coordinate services, provide notice of information availability, promote standards, develop guidelines on timeliness, and suggest user-friendly interfaces. Providing equitable dissemination to all libraries, regardless of differing equipment capabilities in the library community, would be equally burdensome to agencies. The GPO Electronic Information Access Enhancement Act of 1993 (P.L. 103-40), was enacted in part to relieve agencies of this burden by establishing a single online service that would standardize service provision to all depository libraries. Since it is unlikely that many agencies would want or be able to provide differing levels of services, the result would be that only those libraries with the most comprehensive electronic capabilities would be able to access most Federal online systems.

Our review of OMB's legislative proposal concluded with a comment on the philosophical underpinnings of OMB's approach. To support its legislative proposal OMB stated their opinion that "the centralized management model of chapter 19 [of Title 44, U.S.C.] is not appropriate for distributed electronic information products and services." However, as I have noted, this is decidedly not the conclusion that was reached by the broad spectrum of participants in the technological study that was recently concluded. The study instead found that it is possible within the overall structure of current law and program operations to increase the dissemination of electronic information to depository libraries. More important, the study confirmed the value and utility of a central entity to assist libraries and the public in accessing electronic Government information in a distributed environment. As the Public Printer stated, these objectives could be attained through legislative revisions that would be less sweeping than those proposed by OMB, less burdensome on agencies, depository libraries, information users, and the taxpayers, and less damaging to the comprehensive and equitable system of access to Government information provided through the depository library program today.

Chaos in Government Publishing-There Are No Rules

I want to bring to the attention of this Committee other developments that are underway which, if allowed to progress, will have the effect of reducing free, equitable, public access to Government information through the FDLP. The Government information environment is changing rapidly, and this change is being exploited, sometimes to the detriment of the public. Increasingly, we see Government agencies acting as competitors, to each other and to private enterprise, often using their information as a source of revenue. In spite of long-established, successful statutes such as Title 44, we seem to have a new set of rules. And the first rule is—that there are no rules.

Big Emerging Markets

A book entitled The Big Emerging Markets, 1996 Outlook, which was produced by the U.S. Department of Commerce, International Trade Administration, is a prime example of how the new information environment is being used to reduce the information available to the public through the FDLP. In an introduction, the late Secretary of Commerce said Big Emerging Markets, or BEM's, are "a key

focus of our National Export Strategy." He continued that "Our success in these dynamic markets will largely determine the United States' position as the world's economic leader." The book lists U.S. and foreign trade contacts for American businessmen. Printed in September 1995, it is a handsome 480-page, three-color volume. It might have appealed to users of depository libraries or business people throughout the United States who rely upon depository libraries for access, but it was not disseminated through the FDLP.

Although all the editorial work was done at Government expense, the book was published by a private press under a partnership agreement with NTIS, and thus, in the narrowest sense, was not published at Government expense. Therefore the Department of Congress asserted that because of this publishing arrangement Big Emerging Markets is not a Government publication, as currently defined in 44 U.S.C. § 1901, which states:

"Government publication" as used in this chapter, means informational matter which is published as an individual document at Government expense, or as required by law.

If the Department of Commerce had allowed GPO to handle the competitive bid for printing this book any Federal agency wanting copies could have placed a "rider" order at the cost of only printing, paper, and binding. Had GPO handled the procurement, any private sector publisher could have obtained the reproducible materials to print and sell the book themselves. However, most important of all, if GPO had printed or procured the book, it would have been distributed to depository libraries for no-fee public use.

Export Administration Regulations

Here is another, more recent example. For 48 years GPO has procured printing of the United States Export Administration Regulations (EAR) for the Bureau of Export Administration. The Superintendent of Documents has promoted the EAR to an expanding audience largely made up of smaller businesses. In addition, the FDLP has ordered copies for distribution to selecting libraries throughout the country where it is in demand by many citizens, some of whom cannot afford their own subscriptions.

Several months ago, however, the Under Secretary for Export Administration included a letter in the EAR Bulletin announcing that "the Bureau of Export Administration is pleased to announce that it is placing all publication and distribution functions related to the Export Administration Regulations (EAR) in the hands of our sister agency, the NTIS." He added that "NTIS is uniquely qualified to be the exclusive (emphasis added) provider of the EAR." The Superintendent of Documents never received official, written notice of this change from agency officials.

On April 1, 1996, staff of the Office of Export Services (OES) confirmed that OES would no longer publish the EAR using the services of GPO. They said OES had a contract with NTIS in the amount of \$100,000 to make a database of the EAR, and that OES was having a WordPerfect EAR disk produced and that it would be provided to NTIS. They added that the agreement with NTIS included a provision for print copies of the EAR to be supplied to OES, if NTIS sold more than a certain number of print subscriptions. NTIS would also offer for sale an electronic version of the EAR on its FedWorld service.

I stated that the Superintendent of Documents would like to obtain a duplicate copy of the WordPerfect EAR disk at the incremental cost of reproduction. I expressed my interest in seeing that the EAR information gained the widest possible public distribution, including through the FDLP, and this request was subsequently transmitted to OES by letter on April 2, 1996. As of June 12, I have not had a reply.

The intent of OES is to produce the EAR on disk, and make NTIS the *exclusive* recipient. NTIS will then print the paper copy and sell it for \$89 per subscription. The price advertised by NTIS for access to the electronic online version is \$250 per subscription.

I am concerned that this publishing arrangement may violate Section 207 of the Fiscal Year 1995 Legislative Branch Appropriations Act, Pub. L. 103–283, which,

apart from certain limited exceptions, requires Executive Branch agencies to obtain printing and reproduction services from GPO.

Indeed, White House Chief of Staff Leon E. Panetta on April 11, 1996 reinforced this with a Memorandum For Heads Of Executive Departments and Agencies. In the Memorandum, Mr. Panetta said: "The President has asked me to remind you to make maximum use of the capabilities and expertise of the Government Printing Office in handling your agency's printing and duplicating procurements during the next 12 months, in accordance with the following: Agencies should continue to procure printing and high volume duplicating through the Government Printing Office."

In addition, I believe the arrangement is contrary to the policy set forth in OMB Circular A-130, which directs agencies to "avoid establishing, or permitting others to establish on their behalf, exclusive, restricted or other distribution arrangements that interfere with the availability of information dissemination products on a timely and equitable basis." I have asked for an OMB review of this

agreement between OES and NTIS.

GPO has expressed its desire to purchase a copy of the EAR electronic source files in whatever formats are available. Since the electronic disk of the EAR is being produced by Government employees, at Government expense, and procured with appropriated funds, copies should be available to anyone at cost. That would be the case if the disk were being procured through GPO. As a matter of fact, the Bureau of Export Administration initiated a procurement with a private contractor through GPO on March 21, 1996, for a WordPerfect EAR disk. On April 18, 1996, after the Superintendent of Documents ordered a duplicate copy of the disk, the procurement was canceled by the Bureau.

The end result of all of these maneuvers will be a decrease in the number of print subscribers and needless inconvenience to the many clients served continuously by GPO for nearly a half-century. If we were able to obtain the EAR electronic source data it could be made available to depository libraries and the general public via the Internet on our GPO Access service. This would permit us to encourage use of the electronic EAR by depository libraries, and reduce the need for print copies. It would not prevent NTIS, or any commercial vendor for that matter, from adding value and selling the EAR database at any price they wish.

Free public access and competitive private sector electronic versions of the EAR would not be possible under the terms of the agreement announced by the Bureau of Export Administration. The ultimate goal of this agreement is clearly stated in the NTIS order form for the 1996 Edition of EAR. "The Export Administration Regulations are now available exclusively (bold type in the original) through the National Technical Information Service, a United States government agency," according to the order form.

Certainly OES has authority to produce, compile, and format information as it wishes. But I do not see how either current law or federal policies permit them to make agreements and take actions granting anyone a monopoly. Furthermore this agreement with NTIS prohibits timely and equitable availability of the

electronic version of EAR to anyone but NTIS.

Exclusive arrangements for distribution of Government information in print, or electronic, or any other format, are not in the public interest. There is an important precedent involved here, and clearly there are alliances being forged which will make these types of arrangements more the norm than the exception. McGraw-Hill/NTIS Joint Venture

On May 14, 1996, the McGraw-Hill Companies and NTIS announced that "the two organizations have signed an agreement to collaborate on the development of a multitude of information products and services, (emphasis added) such as the United States Industrial Outlook and other market-specific projects."

Last produced in 1994, the U.S. Industrial Outlook, which is a product of the International Trade Administration (ITA), was distributed to 1,210 depository libraries. Although we have a preliminary commitment from the ITA to keep the U.S. Industrial Outlook in the FDLP, we will have to wait until late this year to be certain this commitment is met. Once again, however, we see that an exclusive

arrangement is being made between a Government agency and a private sector concern, which will have the effect of raising barriers to widespread public access to the information.

Reaction to GPO Involvement in Executive Branch Printing

One of the historical strengths of the FDLP is the relative ease with which information products produced by or through GPO are obtained for the FDLP. This process is managed by GPO without any administrative involvement or expense on the part of the originating agencies, and has resulted in what is overall the most comprehensive public information program in the Government. The ability of the FDLP to automatically obtain Government information products is diminished when publishing agencies no longer utilize the services of GPO to publish their products. Once this effective connection between production and the FDLP is severed there is a marked tendency for the information to escape the FDLP; to become what has been referred to as "fugitive documents."

That is why I am concerned about the May 31, 1996, memorandum from the Office of Legal Counsel, U.S. Department of Justice (DOJ), on the subject of "Government Printing Office Involvement in Executive Branch Printing." In Section 207(a) of the Legislative Branch Appropriations Act, 1995 (Pub. L. 103-283), Congress prohibited the expenditure of appropriated funds by executive branch agencies for printing services other than those obtained from GPO. President Clinton's July 22, 1994, statement upon signing the bill, said that "[t]he Act raises serious constitutional concerns by requiring that executive branch agencies receive a certification from the Public Printer before procuring the production of certain Government documents outside of the Government Printing Office."

The recent DOJ memorandum goes beyond President Clinton's 1994 statement, concluding that "[t]o the extent that 44 U.S.C. § 501 and 501 note require all executive branch printing and duplicating to be procured by or through the GPO, those statutes violate constitutional principles of separation of powers." Regardless of the legal merits of these positions, the practical effect is to encourage executive agencies to bypass the GPO, thereby removing their information products from public availability through the FDLP. We estimate that up to 70% of the titles in the FDLP each year originate in the executive branch agencies. Removal of executive branch work from the GPO will have a serious impact on the equitable and comprehensive public access to Government information through the FDLP.

Conclusion

Federal agencies are producing a rapidly growing volume of information in electronic formats. In some cases these formats are information products such as CD-ROMs which are distributed to depository libraries. In other cases, the agency stores information on its own computers and provides access online. Agency online services are often, but not always, available free to the general public, not just to a targeted audience. Just how far agencies are willing to go in expending resources for the general public is an unanswered question, but serving the general public is rarely a primary responsibility.

The agencies are responsible, however, for the authenticity, currency and availability of their own electronic information products. Historically, depository libraries have been responsible for storing Government information onsite and providing free access directly to the public. In the electronic age, a great deal of information will be stored by the agency which created it, by GPO, or by agreement with a third party. The responsibilities of depositories are changing. They

will provide access to electronic information stored elsewhere.

We are going through a time of technological chaos. When we emerge, it is important that the American public still have equitable and free access to information about what its Government is doing. Clearly the new electronic information technologies have enabled new approaches toward getting Government information published. However, in pursuing these new arrangements, agencies must not lose sight of the existing laws and regulations put into place to ensure broad and equitable public access, and to ensure that today's information is still accessible tomorrow. These are the concerns that the FDLP has addressed for many years, and intends to pursue in the electronic future.

Mr. Chairman, I thank the Committee for this opportunity to testify concerning public information policy and the FDLP. I welcome any questions that you may have.

The CHAIRMAN. Mr. Kelley, that is dramatic testimony, and I am very pleased that you came forward and informed this committee, and we are going to promptly look into those allegations. I generally share with you the concept that what is created by public taxpayers' money should be returned to them free, so we have got to take a look at that.

Let us focus on this shift to the electronics. If I understood your testimony, you indicated that the transition to electronics will be less costly over a 5- to 7-year period than over a 2-year span. Can you expand on that a little bit, particularly the costs to the taxpayers and the libraries who use this and so forth?

Mr. KELLEY. Yes, Mr. Chairman.

We were tasked by the House Appropriations Committee with coming up with a plan that would contain a rapid transition to total electronic products. In putting out that plan, we asked for comments because a congressionally-mandated study had asked us to consult with librarians, with people in industry, with people in Federal agencies, with committee staff and so forth.

What we discovered was that the Federal agencies are not yet ready to go to a full transition to electronic documents. If we were to take their paper documents and start scanning them, the

cost would be astronomical.

Furthermore, depository libraries, although many libraries are now prepared to receive electronic information, are in a state of transition themselves. Few libraries currently have the staff, resources, computer equipment and so forth to serve the public in the next 2 to 3 years.

The CHAIRMAN. If I could interject at that point, my understanding is that these designated libraries bear all of those costs themselves; am I not correct?

Mr. KELLEY. That is correct, Senator.

The CHAIRMAN. And it should be made clear that while they are designated a Federal depository, they get nothing by way of compensation from the Federal Government to perform that service; is that correct?

Mr. Kelley. That is correct. And that means that in this transition to electronic documents, there will be a transition of costs, too. Librarians and libraries will have to supply more staff and more equipment and to print out documents, documents that they would have received free in print format.

The CHAIRMAN. And in the case of the University of Virginia Alderman Library, which is a State-funded as well as privately-funded institution, it would have to bear those costs.

Mr. KELLEY. Right.

The CHAIRMAN. And they are very significant costs. What is the solution in your judgment?

Mr. KELLEY. We feel that a transition over a period of 5 to 7 years is appropriate. That is what most libraries have recommended. We also feel that there ought to be a study of the standards being employed by Federal agencies as they move into the electronic era so that we can gauge the kinds of materials and the electronic formats in which they are going to be produced. Then we feel that we can assess better the capability of libraries for dealing with these materials.

Right now, libraries receive electronic information in a wide range of CD-ROMs, different types of software, different types of formats, and there is no adopted standard. So we believe that a study of where Federal agencies are going, the standards that they are employing, and gauging that against capabilities of libraries to receive the information is very important.

The CHAIRMAN. Could the system be adjusted such that, say, some libraries which may have a particular level of endowment or source of income could go ahead in 2 years, and others could do it in 5 to 7 years, or does it have to be on a uniform basis?

Mr. KELLEY. Some libraries are certainly equipped right now

to do a lot more and can. The question is the content on the Internet. There is a lot being made of information on the Internet, but on closer examination, a lot of the content is not there.

So I think that the agencies themselves—the whole process is at the beginning stage; it is not a mature process.

The CHAIRMAN. Do you see an enlargement of the depository

system as we move to the electronic expansion?

Mr. KELLEY. I do not think we officially have to have more depository libraries. I think that what is going to happen is that nondepository libraries and citizens at home who would ordinarily go to a library will begin to use the information electronically. We will not need to designate more depositories to provide resources if the individuals may do it themselves.

The CHAIRMAN. Several of Virginia's depository libraries, including the regional depository at the University of Virginia and the depository library at Virginia Tech, have indicated that they can transition fairly comfortably to electronic documents within the next 2 years. However, these and most other Virginia librarians I have heard from express a great deal of reservation about small and more rural libraries being able to provide electronic access in 5 to 7 years. Do you see a tiered approach—and basically, we have covered this, but I want to make sure we have this answer for the record-with transitioning taking longer for smaller libraries?

In other words, the program could be adjusted, in your judgment, so that the smaller libraries could take 5 to 7 years and the larger, more affluent ones could take 2 years?

Mr. KELLEY. I think that in administering the program, we would do our best to assist those libraries with limited resources to come up-to-speed and that that would be done over a period of time and that we would not place requirements on them that they could not meet.

The CHAIRMAN. Thank you. Senator Ford?

Senator FORD. Mr. Chairman, you asked the questions that I had on my mind this morning.

Let me go a little bit further with you, Mr. Kelley. Since you became Superintendent of Documents, can you give us an estimate of how many letters to heads of agencies you have written, complaining that specific publications are being excluded from the depository system?

Mr. KELLEY. I personally have written very few letters because we have an active program within the Depository Library Program at GPO of contacting agencies. Our staff contact mid-level staff at the agency and work with them. So that it would be a rare occasion when I would write an agency. I have written two or three letters recently because of the high-level decisions of agencies not to participate. But we have dozens of contacts per month with Federal agencies who are producing materials, encouraging them to include them in the program.

Senator FORD. Do you find that most of the major agencies in the executive branch are trying to put in their own printing press

and printing office?

Mr. KELLEY. There is a tendency on the executive branch side to take care of their own printing.

Senator FORD. That excludes you, and therefore, you would not have access to the documents and could not send them to the depository library?

Mr. KELLEY. Right. We would not know the document existed; it would become what we call a "fugitive document." It would not be catalogued, indexed, included in the monthly catalog of Federal documents.

Senator FORD. Now, Mr. Kelley, the so-called "fugitive documents" question which you just mentioned—I hope people understand what you mean-these are documents printed by other agencies that are not available to you or that have not been sent to you. Do you maintain a list of fugitive documents? As you find out about them, can you make a list of fugitive documents?

Mr. KELLEY. We do to a degree. For some documents which are very old, and there are no copies available, we may make an effort to find those documents, but a lot of these things just disappear.

Senator FORD. What happened in the past with fugitive documents? Are you still following the same procedure as previous directors in your position?

Mr. KELLEY. I am doing the same thing that former Superintendents did. That is, within our depository program, our best early warning system for a fugitive document is when a librarian or a citizen alerts us that there is a document in existence that is not in the program, and then we will go after it. We continue to do that.

Senator FORD. Mr. Kelley, this may be an easy or a tough question, but I think this committee needs an answer from you as the individual who has the responsibility. What specific language do you believe we could use that would give the Superintendent of Documents or the Public Printer the tools to keep all published Government information in the depository system? I thought we had it in Title 44, but apparently, they are like a lot of other people who do not follow the law.

Mr. KELLEY. I think it should be made very clear that all documents and all formats are to be included in the program, and that means electronic documents as well as print or microfiche documents. Some agencies are claiming to an extent that

electronic documents do not have to be in the program.

I think that whenever an agency offers a document for sale, it should not be excluded from the program simply because they choose to get revenue for it. I think the law could be adjusted to take care of that.

I think that when an agency publishes a document, whether it is electronic or whether it is in print, they have an obligation to let the Depository Library Program know of its existence. I

think those things would help.

Senator FORD. But Mr. Kelley, you testified—I believe it is at page 11 of your testimony—about "Big Emerging Markets," that "'Government publication' as used in this chapter, means informational matter which is published as an individual document at Government expense, or as required by law." And you said that, "Had GPO handled the procurement, any private sector publisher could have obtained the reproducible materials to print and sell the book themselves. However, most important of all, if GPO had printed or prepared the book, it would have been distributed to depository libraries for no-fee public use."

So that by using their own, NTIS—we gave them \$8 million to go out and be a competitor of yours—closed the door. As you said a minute ago, the public cannot even get in when they decide what contract they are going to sign and what they are going to sell. You are excluded from that, and then the public is excluded. So if they enter into a contract with a publisher, then you are excluded, and the public is excluded, and that gets down to where the taxpayer not only pays for it once, but twice, three times, and gone.

Mr. KELLEY. Right.

Senator FORD. Thank you, Mr. Chairman.

The CHAIRMAN. I think we got your point. Senator FORD. As an old auctioneer. [Laughter.]

The CHAIRMAN. It is just sort of a general impression here that if we were to bring this all back in under the jurisdiction of GPO, is this going to require substantial expansion of the GPO in terms of staff and so forth?

Mr. KELLEY. No, Mr. Chairman. We are set up in the Depository Library Program to process very efficiently and

effectively as many documents from the Government as we can locate, and it would require no additional staff for us to do that.

The CHAIRMAN. Thank you. Senator Pell? Senator PELL. Thank you, Mr. Chairman.

In your view, Mr. Kelley, does the library community remain the most effective means of distribution in the electronic era, or

should we be contemplating other alternatives?

Mr. KELLEY. In the electronic era, I think that depository libraries and librarians have an even more important role than they had with print. Many things on the Internet are not catalogued. Some documents are easy to find and easy to use; others are obscure. I think a librarian acting in the public interest as an intermediary is going to be absolutely essential to people who are looking for information in a vast storehouse of uncatalogued materials.

I do think, however, that some people will be able to figure these things out for themselves, and they will do that at their homes or their offices, and they will not need to go into a depository. That is fine for them. For the people who need assistance, who do not know whether something is in print or whether it is in electronic format or whether it has switched from print to electronic, when was it discontinued, and if it is electronic, how do you use it, I think depository librarians are absolutely essential.

Senator PELL. Do you envisage the GPO acting as the central control point, or where would that central control point be?

Mr. KELLEY. I think that the GPO, located in the legislative branch, bipartisan and bicameral, is the appropriate central source for coordinating these activities. I have heard people say, Senator, that you do not need any coordination of this, that every agency and every agency's chief information officer can deal individually with depository libraries. Well, there are 1,400 depository libraries and something like 4,500 printing or publishing entities. That would mean something like 6 million individual contacts for people if they were going to do it library-to-library, agency-to-agency.

So I feel that there is a need for a central coordinating

organization that cares about information for its own sake.

Senator PELL. Thank you very much.

Senator FORD. Mr. Chairman, I am disturbed here, and it is obvious that I am. I hope you would give some consideration to having a hearing as it relates to the need to get to the bottom of the issues raised by Mr. Kelley in regard to copyright materials and documents printed privately and not delivered to the public through the depository libraries. I think this is a very, very dangerous precedent that has been going on for a while. They were nibbling around the edges for a while, and now they are getting toward the center, and I do not particularly like that. So I am going to encourage the chairman to have a hearing specifically on copyright materials that are so-called fugitive from the central part of getting to the dissemination of materials to our libraries and to our people who have already paid for it.

Thank you, Mr. Chairman.

The CHAIRMAN. Your suggestion is well-taken. It is agreed to and will be done.

Senator FORD. That is a part of the record, isn't it?

The CHAIRMAN. That is correct.

Senator Pell, we should also acknowledge your long participation in the subject of libraries. Many, many times, on this committee and on the floor, I have heard you speak on behalf of libraries, and we are particularly grateful for that today.

We are going to have a series of hearings, and the chair and the ranking member will publish shortly the schedule and the

subject matter.

One other thing, Mr. Kelley, on the question of the no-fee access to information provided to the depository libraries through the GPO program. If patrons want their own copy, they pay a small fee. Now let us talk about the electronic act. Could you elaborate a bit about the cost recovery issue and the no-fee access issue and explain how electronic information might change that?

Mr. Kelley. Yes, Senator. What is going to happen with electronic information—and some of the people who are going to appear on the panel following me will be able to elaborate on it—in a depository library now, if someone locates a print document and wants a copy of it, he can xerox it or whatever. With an electronic document, particularly ones that are several hundred pages long, this is going to put a considerable burden on a library. They will have to have laser printers, and they will have to have terminals dedicated to printing this information out, or other arrangements will have to be made.

In either of those cases, the library will have to pay or the consumer will have to pay. And sometimes, xeroxing a 400-page book costs more than buying it.

The CHAIRMAN. I do not doubt that.

How would you foresee the agencies of the Federal executive branch and the judicial branch cooperating on electronic publication decisions from format to storage and retrieval decisions, especially since their track record is not uniform in compliance even with printed documents?

Mr. KELLEY. Well, let me say first, Senator, that while I pointed out some problems, by and large, most agencies in the Federal Government care about the depository program and cooperate with it. It is a great strength, and it is a partnership with the

librarians and with the GPO.

In electronics, what is happening is that information is being stored by agencies in their own servers, and that is quite appropriate. They created the information, and they should control it, and they should store it.

What we are going to do is not ask them to transfer that information to us, but we will point to it through the technologies available on the Internet and World Wide Web. We will ask agencies to keep us informed when they have information up and when they are going to take it down.

So the information would remain with the agency, and the depository program is forming a series of locators that will allow the individual citizen or the librarian to find information throughout the Government. We will catalog in effect, and we will point to information. When an agency finds that its server is full, and it no longer wants to maintain it, we would ask the agency to notify us so that the Government Printing Office could download and store that information for permanent access by the public.

So I think that what we would do would be to take advantage of the technology and the agency's own efforts. As with the current program, we would have no control over the agency's publication efforts; we would just point to those things on their

server.

The CHAIRMAN. I have before me, Mr. Kelley, Title 44, Sections 1901 and 1902, and I would ask you to supplement your testimony today by recommending to this committee such amendments thereto as you deem desirable.

Mr. KELLEY. I would be glad to do that.

[The information is included as Appendix A4.]

The CHAIRMAN. Thank you very much, Mr. Kelley. You are a very well-informed and articulate witness. The public is served well by your presence.

Senator PELL. Mr. Chairman.

The CHAIRMAN. Yes, Senator Pell.

Senator PELL. Mr. Chairman, thank you for your remarks about my interest in libraries. I would like the record to show that it was stimulated by my father having been on the Joint Committee, so I am really following him.

The CHAIRMAN. That is remarkable. Thank you very much,

Senator Pell.

Thank you, Mr. Kelley, for your appearance.

The CHAIRMAN. I will now call the next panel forward, please. We welcome Daniel P. O'Mahony, Government Documents Coordinator at the Brown University Library; Dr. Betty J. Turock, President of the American Library Association; and Dr. Christie D. Vernon of Yorktown, Virginia. What a pleasure.

Why don't we start with you, Mr. O'Mahony?

TESTIMONY OF DANIEL P. O'MAHONY, GOVERNMENT DOCUMENTS COORDINATOR, BROWN UNIVERSITY LIBRARY, PROVIDENCE, RHODE ISLAND

Mr. O'MAHONY. Thank you, Mr. Chairman, and thank you, members of the committee.

As Senator Pell so graciously mentioned earlier this morning, I am the Government Documents Librarian at Brown University in Providence, Rhode Island. This past year, I also served as chair of the Depository Library Council, a national advisory board to the Public Printer. The Council this past year has been one of the advisory groups to the GPO study process.

I am delighted to be here today as the committee begins to

examine public access in the 21st century—

The CHAIRMAN. Let me interrupt the witness. The ranking member and I wish to inform you that all of your statements in their entirety will be admitted to the record, and you may summarize as you see fit.

Mr. O'MAHONY. Thank you, Senator.

I certainly appreciate the opportunity to offer you my perspective as someone who works day-in and day-out with all forms of Government information. My job as a documents librarian is to enable Rhode Islanders to gain access to Government information. To effectively accomplish this, I rely heavily on the products, services and support of the Federal Depository Library Program. This program, based on another Virginian, James Madison's, vision of an informed citizenry, has successfully fulfilled this role of meeting the Government information needs of the American public for the past 139 years, as Senator Ford pointed out this morning. Its mission, however, has never been as important as it is today.

In the information age of the 21st century, our very survival, as a Nation and as individuals, will be determined by how successfully we utilize information. It is imperative that we make it as easy as possible for people to find, access and use Government information in ways that are meaningful for them and equitable and economical for us all.

My message to you is that the most effective and cost-efficient way to achieve this is to strengthen the Depository Library

Program.

Let me give you just a brief glimpse of the present landscape of electronic Government information. On the one hand, we have the promise of new technology. A student at Brown last year for her senior project used a number of electronic sources, including the 1990 Census and the EPA's toxic release data, to analyze the presence of lead-based paint in Providence homes with small children. These results were shared with local agencies to help identify neighborhoods at risk for lead poisoning. Electronic Government information made available at Brown helping the community.

On the other hand, however, we have the daily pitfalls of the electronic reality. Another patron recently needed voting and registration statistics for the 1994 election. This information now is available only electronically. Despite two phone calls to Government offices and an hour of searching the Internet, the patron could not find the data anywhere. The patron then asked

the depository librarian, who, luckily, happened to remember coming across this file once before when looking for something else. When the patron finally downloaded this data, for some reason, the format of the file made the data totally unreadable. It took three experienced computer technicians over 3 hours to determine the problem and reconstruct the information to a format that the patron could use.

Obviously, we are still a long way from easy and instant access to Government information at the touch of a button or the click of a mouse. We must be realistic in our expectations about how quickly we can implement electronic technologies and not lose sight of the overriding goal of improving public access to Government information.

So how do we get there from here? As we look to the 21st century, what can we do to improve the system? How can we make it easier for the public to get the information that they need?

Well, first, they have to be able to find it. Anyone who has attempted to locate anything on the World Wide Web or, for that matter, relocate what you found there just yesterday, knows first-hand the confusion and frustration of users of electronic information. There needs to be an effective, standardized and centrally coordinated mechanism for locating and cataloging Government information on the Internet. We cannot rely on serendipity or librarians' memories.

Second, the information has to be there when they need it. Some of the most heavily used documents in our library are older census reports and congressional documents from the 19th century. Fortunately, we have the tools and the structures in place that enable us to preserve these printed materials. We must be sure that adequate and reliable systems are in place to guarantee that electronic information will be preserved as well.

Third, we must recognize that print is still very much a viable and cost-effective format. Without question, some information is highly suited for electronic access. But all information is not always appropriate in electronic format only. Congressional hearings, for example, and documents like high school debate materials are excellent samples of publications best suited for print.

As we plan for the future, we must recognize the relative advantages of the many information formats at our disposal and understand the continued need for printed materials.

Fourth, in the highly decentralized world of electronic information, there is a critical need for centrally-coordinated library-related services through the Superintendent of Documents.

As Mr. Kelley pointed out earlier this morning, 1,400 depository libraries individually making arrangements with hundreds of Federal agencies equals chaos and inequitable services.

Finally, we must strengthen the support system. At Brown, we have over 250,000 books in our Federal documents collection. For any one of these volumes, any person can walk in off the street, take one off the shelf, and have a decent chance of finding—and then reading—the information that they are looking for. By contrast, we have only about 1,100 CD-ROMs—but every one of these has its own equipment needs, software requirements, and other special idiosyncracies. We need common standards, sensible documentation, and practical training to give libraries and users a fighting chance against the tidal wave of electronic information coming our way.

Mr. Chairman, there is no question that electronic technologies can greatly improve public access to Government information. I see examples of this every day. We must be certain, however, that in our efforts to utilize these new technologies, we

do not erect new barriers for the public.

In closing, I would like to thank you, Mr. Chairman, Senator Pell, Senator Ford and the other members of this committee for giving full hearing to these important issues and for soliciting the input of the depository library community in that process. I am also delighted to see represented on the panel here this morning a user of Government information—probably one of the most important perspectives of all.

I would also like to offer for the record, Mr. Chairman, a compilation of statements by other users of Government information in this publication, recently put together by the Depository Library Council, entitled, "Fulfilling Madison's

Vision."

I have greatly appreciated the opportunity to appear before you this morning, and I thank you for your consideration of my comments. I would be pleased to take any questions you may have.

The CHAIRMAN. I should note that you also served as chair of the Federal Depository Library Council.

Mr. O'MAHONY. Yes, Senator.

The CHAIRMAN. You come well-informed to this committee.

Senator FORD. Mr. Chairman, I ask unanimous consent that the statement of Mr. O'Mahony be included in the record.

The CHAIRMAN. Yes; I think I indicated that all statements would be included, and that witnesses could summarize.

Senator FORD. I just wanted to be sure that that document was included. It does not need to be reprinted, but it does need to be included.

The CHAIRMAN. No; it is a part of the record. [The prepared statement of Mr. O'Mahony follows:]

PREPARED STATEMENT OF DANIEL P. O'MAHONY, BROWN UNIVERSITY LIBRARY

Mr. Chairman and Members of the Committee, my name is Daniel O'Mahony and I am the Coordinator of Government Documents and Social Sciences Data

Services at Brown University Library in Providence, RI. This past year I also served as chair of the Federal Depository Library Council. The Council is a 15-member advisory board to the Public Printer made up of a cross-section of representatives from the depository library community, including librarians, information specialists, administrators, the private sector, and the public at large. The purpose of the Council is to provide the Public Printer and the Superintendent of Documents with advice on policy and operational matters relating to the Federal Depository Library Program (FDLP) and access to federal government information.

This past year the Council also has served as part of the Advisory Group for the Study to Identify Measures Necessary for a Successful Transition to a More Electronic Federal Depository Library Program, undertaken by the Government Printing Office (GPO) at Congress' direction.

I am delighted to be here today as the Committee begins to examine public access to government information in the 21st century, and I appreciate the opportunity to offer you the perspective of a "working documents librarian." As one who works day in and day out with electronic and other formats of government information, I have a front-row seat in seeing the tremendous advantages of some kinds of electronic information, and I am excited about the potential for expanding and enhancing the array of government information available to the public through electronic technologies. That same experience, however, has shown me that we must seriously consider the impact of these technologies on the ability of the public to access government information. My comments this morning will address the role of depository libraries and the Federal Depository Library Program in meeting the government information needs of the American people in the 21st century. Specifically, I will focus on four points:

1) in = the ongoing need for a strong FDLP in an electronic environment;

2) the need for the program to take full advantage of all appropriate information formats in delivering government information to the public;

3) the need for cautious optimism (or what some of my library colleagues might call a "reality check") in planning the transition to a more electronic system; and

4) the need for incentives and enforcement mechanisms in order to ensure government-wide compliance and full access.

Ongoing Need for a Strong Federal Depository Library Program

The Federal Depository Library Program has been remarkably successful over the years and is one of those rare instances in life where the reality and the rhetoric are in concert. The FDLP's singular purpose is to organize and provide access to federal government information so that people can use it. It takes the lofty ideals of Madison's "informed citizenry" and Jefferson's "enlightened democracy" and puts them to work everyday in every community across America. The program is also an incredible bargain for taxpayers. The Government Printing Office (GPO), that administers the FDLP, is able to identify, acquire, procure, print, reproduce, distribute, and catalog the more than 20 million copies of depository publications each year at an average cost to the federal government of approximately one dollar per publication. The nearly 1,400 depository libraries across the country serve as the local link to that information, assisting the public and the federal government by providing the space, equipment, networks, training, professional assistance, and user support necessary to connect people with the government information they need.

This partnership has worked for 139 years and can continue to work well in a world of tangible information products. More importantly, the underlying principles and goals of this partnership must be strongly affirmed as we strive to enhance the system and improve public access through the use of electronic

information technologies.

As I look to the 21st century, I see an increasing need for the FDLP in the following areas. First, identifying and cataloging government information in a systematic and centrally coordinated way so that people can find it (what we librarians like to call bibliographic control). Anyone who has attempted to find anything on the Internet—or for that matter, relocate something that you found YESTERDAY on the Internet—knows firsthand the difficulties in trying to sort

through the ever-changing intricacies of the World Wide Web. Internet addresses and Universal Resource Locations (URLs) are in constant flux, and information appears and disappears at whim. Further, most web browsers try to reduce everything to keyword searching, which becomes meaningless when you search for topics like "clean water act amendments" or "health care reform." Add to this the maze of government bureaucracies—both human and electronic—and you begin to have some appreciation for the frustrations encountered by users trying to access government information via the Internet. GPO's Pathway project is a key response to this fundamental problem. The Pathway service continues GPO's historical role of cataloging and indexing by providing a means for ongoing and standardized bibliographic access to government publications available via the Internet. Ultimately this service will provide the critical links that enable users to find information as it migrates from print to electronic formats. Development and support for Pathways and similar indexing and locator services are absolutely essential in order for users to find and take advantage of the enormous national resource of government information.

A second important role for the FDLP is to develop and set standards to facilitate widespread access and use of government information. In a highly decentralized electronic environment, government-wide standards are critical in order to allow multiple agencies and program partners to efficiently exchange data, carry out cooperative ventures, and reduce unnecessary duplication of effort. The FDLP can be a leader in developing standards and guidelines for bibliographic access, user software functions and operations, documentation and support activities, licensing and access agreements, networking configurations, file formats, model agreements for data sharing, long-term retention and preservation of data, and other areas. Without this guidance, the chaos of the electronic

information landscape will only worsen.

A third key reason for the FDLP in the 21st century is to ensure that the public has continuous and long-term access to government information. As you know, the National Archives is an invaluable treasure that serves the nation by preserving the important primary source documents that reflect the official business of the federal government. They are not, however, set up to handle the constant stream of questions and demands for public information that flows through local depository libraries everyday. Historical government information is extremely important to all types of users and is in constant demand. At Brown for example, many of our students in political science, urban studies, and other areas use census data in their class assignments and projects. The 1990 census on CD-ROM is without question one of the most heavily used items in our library. But so are the printed reports of the 1970 census and the 1950 census. Providence, like any other urban area, is a very different city today than it was twenty or forty years ago. The students in these classes, in order to have a fuller understanding of the city today, are looking at how the area has changed over the past few decades in terms of age, race, ethnicity, education and income levels, industry, business, and other characteristics. We need to be sure that students in the 21st century will have the same opportunities to look back at the 1990 and 2000 censuses. Furthermore, the collection of U.S. documents at Brown dates back to the earliest years of our nation. Materials from the 19th and early 20th centuries are heavily used, not only by students and researchers, but by state and local government, businesses, and the public at large. The FDLP has traditionally fulfilled the role of securing long-term access to government information for public use, and this service is increasingly important in the electronic age.

To accomplish this goal in the future, we will need to look closely at how and why the FDLP has succeeded in carrying out this role in the past. One of the distinct advantages of the FDLP is that it is comprised of a large number (approximately 1,400) of geographically dispersed libraries. In particular, fifty-three of these libraries, the Regional depositories, have agreed to receive and maintain comprehensive collections of government publications for current and future use. This cooperative Regional system guarantees that adequate copies of government publications will be available for future users. Since these collections reside in and are serviced by various libraries of all types, they are less susceptible to the possible vicissitudes in political or budgetary support of any single

authority, not to mention the numerous natural and physical disasters that can strike anywhere. In the electronic environment of the 21st century, it will not be necessary to have 53 "electronic Regionals"-indeed, in an electronic world it will be much easier for multiple libraries to share and coordinate these responsibilities rather than having to rely exclusively on the single Regional library in the area. But some healthy number of electronic mirror or remote sites will be required to ensure continued, flexible, and reliable access to electronic government information. The government furloughs of last Fall are an excellent example of how single or exclusive sources of electronic information can unexpectedly shut down and leave users in a void. In addition, wide geographic distribution of physical electronic products (like CD-ROMs) provides libraries and users with local options for accessing electronic information. The goal for ensuring the preservation and long-term access of government information in the electronic environment should be to achieve a level of "robust redundancy," as my colleague, Julia Wallace at the University of Minnesota has described it. The only way we can be confident of future access is if we do not place all of our eggs in one single electronic basket.

A fourth need for the FDLP in the 21st century is perhaps the most important of all: by providing citizens with a direct public link to government information in their local communities, depository libraries help break down many of the barriers that exist between the federal government and the American people. Depository libraries are committed to providing the necessary technical infrastructure and professional assistance in a neutral environment to enable people from all walks of life to take full advantage of their government's information. No other sector of the information landscape is set up to deal with the nation's government information needs at the local community level. While each federal agency has its own specific constituency that it serves, generally these groups are very narrowly focused, and most times the agency is unable to supply anything but the most current data or information. That's not to lay blame with the agencies; for most, quite simply, that's not within their current mission. As one of the most prolific publishers in the federal government, Congress should be acutely aware of this. If you walk through the stacks of the documents collection at Brown University, you'll find that at least 25 stack ranges of books are devoted to publications of the U.S. Congress and its committees. Compare that with the 29 stack ranges for all of the other documents in our depository collection combined. As supportive as our Members of Congress from Rhode Island have been over the years-and indeed, with all due respect to the other Members of the Committee, one would be hard pressed to find another state that has benefitted from the kind of support and advocacy for libraries that we in Rhode Island have enjoyed—even with all that truly wonderful support I venture to guess that Senator Pell and his colleagues would find it rather difficult to keep up with the flood of requests for congressional publications they would be fielding if the information were not readily available at local libraries throughout the state.

Depository libraries are set up for one purpose: to connect people with government information—past, present, and, with the support of Congress, well into the future.

The nature of this service to the public has changed dramatically, however, and continues to become increasingly complex. To illustrate some of the public service issues facing libraries and users today, I thought I might elaborate on one "real life" example, a slice-of-life story to give you the present status of servicing electronic government information. Two weeks ago, a student came up to the reference desk needing to find statistics on Aid to Families with Dependent Children (AFDC) benefits for a research paper. She wanted to compare the benefit levels for families in Rhode Island with families in other states. She knew from previous class assignments using census data that we had a large collection of government CD-ROMs, and she hoped that they might contain data on her topic. I suggested that she try the "Green Book," officially titled, Background Material and Data on Programs within the Jurisdiction of the Committee on Ways and Means, a standard reference source published by the Committee which gives an overview and statistics for entitlement programs. I pointed out that we had the

latest edition (1994) both in paper and on CD-ROM. Seeing the thickness of the paper copy (about two inches) and eager to use an electronic source, she opted for the CD.

I retrieved the disk from the office and looked for an empty computer workstation to get her set up. The reference area of the Rockefeller Library has 16 computer workstations for public use. All of the workstations offer a standard menu of databases and networked services for which the library provides service. Two of these computers are unofficially designated as "documents machines." These two machines contain additional software loaded to support some of the more than 1,100 CD-ROM databases we have received to date through the FDLP, and depository applications are given a priority on these workstations. However, given the large number of depository CDs, only a very small, select number of frequently used depository databases are actually loaded on the computer's hard drive and ready to go; there simply is not enough hard disk space to support more than this type of arrangement. The rest of the CDs are handled on a case-by-case basis and loaded as patrons request or need them.

That afternoon in the Rockefeller reference area, all of the workstations were busy except one of the Documents machines. Luckily, this was the same machine that already had the software for the "Green Book" loaded, so we were in business. We sat down at the computer, and as I loaded the disk into the CD drive, we quickly discovered why this machine was not in use. The keyboard had been re-mapped, either by a mischievous student or, more likely, by a quirk in a previous software application, and none of the keys would register the correct value. In other words, typing "abcde" would produce "&xq5n" (or something to that effect). I quickly went through the series of commands to re-map the keyboard to its correct configuration, rebooted the machine, and then called up the software for the "Green Book" CD-ROM. I worked with the student over the next several minutes to help her get comfortable with the search and display functions of the software, and then left her to help several other patrons who were waiting at the reference desk.

A few minutes later I noticed that the student was hovering over the printer attached to that computer, and I went over to see what the problem was. She had found a statistical table that gave her just the information she was looking for, but five pages into the printout, the printer had jammed. More importantly, however, the printout didn't seem to be the table she wanted printed in the first place. I fixed the printer problem, and then we sat down to take a closer look at the CD software. There was no printed documentation or user guide that accompanied this product. There were on-screen "help" files, but they were so general that they were useless. I am familiar, as are most reference librarians, with the basic functions of many retrieval software applications, and after a brief trialand-error test I discovered that the user of this particular product must first highlight or "mark" the specific excerpt of the text that they wish to retrieve, copy it to the system's "notepad," then print the text from the notepad. When the student originally had found the table she wanted and had initiated the "print" command, the system actually had begun to print the entire 130 page section of the document in which her table appeared. (I took the printer jam after only five pages as a virtual sign of divine intervention.) I showed her the necessary steps to mark and print a specific portion of text, and the printer cooperated this time and the table was printed. At this point, she had invested approximately 25 minutes total into this transaction, and I only slightly less time.

When she examined her printout, she discovered that because the width of the table was much larger than the width of the paper, the columns and data in the table were cut off after 80 characters, with the remainder rearranged and then later printed on one of the three subsequent pages of the printout. This made it a bit difficult to read the tables and match up the states and the numbers. We went back into the software and the minimal help screens to see if there was a way to adjust the page width of the print output. The system, however, allowed essentially no flexibility in formatting printouts, and we could not find a way to get all of the columns to appear on the same page. At this point, we had invested approximately 35 minutes total into this transaction.

Finally, I reminded her about the printed version of the "Green Book," and that perhaps the book might contain a more readable format of the table she was interested in. She went to the reference shelf, retrieved the book, and looked in the index for the table. Less than five minutes later she came up to me to show me that she found the data in the book and had made a single photocopy that contained the entire table.

Not only is this story "typical" of what users and librarians face everyday, in many ways this example is a "best case scenario." We were dealing with a patron who is highly educated, familiar with computers, and enthusiastic about electronic information. She had a clearly identified information need, was knowledgeable about the subject matter, and knew where to go to start to look for the information. Also, a machine was immediately available for her to use (not always the case) and the specific software for that particular product was already on the machine (definitely not always the case, given the ever growing number of electronic products and the limited number of workstations in any library). Loading the requisite software on the computer hard drive could have taken anywhere from two minutes to two hours or more, depending on the product. Also, by the way, this student was very patient and good natured about it all, and viewed this as a learning experience (this too, unfortunately but understandably, is not always the case, especially during finals week). Given all that—and the assistance of a professional librarian who specializes in the field—it still took the two of us over a half-hour to (unsuccessfully) retrieve in electronic format what it took her less than five minutes to retrieve ON HER OWN from the printed source.

This cautionary "tale of two formats" is not intended to dismiss the potential of electronic information technology. Again, I must stress that I am an enthusiastic supporter of electronic technologies as a means to enhance access to government information. However, there are very serious service considerations that must be addressed as we determine the best utilization of these technologies and formats. Which leads me to my second major point this morning.

Appropriate Formats

Some information is highly suited for electronic search and retrieval. For example, I have found too many documents hidden away in the Federal Register using the electronic version on GPO ACCESS to be convinced otherwise. Further, electronic information provides completely new opportunities for access and analysis that before were unthinkable. Depository libraries are helping users access and utilize electronic government information in innovative ways. A student at Brown last year used a number of government databases to conduct a survey and analysis of lead-based paint in houses in the Providence metropolitan area. Another student used geographic information system (GIS) software to examine whether public bus routes were effectively serving poorer city neighborhoods with high concentrations of elderly population. A minister from Central Falls, RI, has used the 1990 census CD-ROMs to help him identify minority communities for outreach services. Users at libraries in other parts of the country have expressed their delight in-and reaped financial benefit from-having access to the online Commerce Business Daily, which now gives them immediate electronic access that puts them on equal footing with East coast companies. Use of electronic government information is taking place everyday in depository libraries across the country and having a direct impact on the quality of life and the economy in every community.

But ALL information is not always appropriate for electronic format only. For many kinds of information, print is still very much a viable and preferred format. Whether for historical and preservation reasons (like the Congressional Record) or for facility of use (like most books or journals or congressional hearings), print remains the most appropriate format and the best medium for effectively communicating the information that was compiled at public expense and intended for public use. For these materials centralized printing remains the most efficient and cost-effective model for the system, for libraries, for the environment, and

for the public at large.

I also must point out that even in cases where electronic may be the most appropriate format, the absence of any meaningful documentation, the lack of standardized software operations and functions, and the difficulty in obtaining usable output, all present major obstacles for the user in trying to access government information, as was illustrated by the case of our student and the "Green Book."

Reasonable Transition

The third major point I wish to stress this morning is the need for cautious optimism in planning the transition to a more electronic system. I think it is important to recognize that despite the tremendous potential and, in many cases, compelling advantages of electronic information, the reliable and flexible information infrastructure necessary to support a predominantly electronic FDLP is not yet in place—not in the federal agencies, not in the Internet and supporting networks, not at the libraries, and not with public at large. Depository libraries have made great strides in recent years in integrating electronic products into their menu of government information services for the public—indeed, depositories are much farther along than most other libraries and the general public in utilizing new technologies. But with each step we must be sure that we are enhancing public access and not erecting new barriers.

One of the more outrageous myths believed by some these days is that electronic government information is easily and readily available via the Internet for anyone to access at any time they choose. This is a worthy goal, but we're not

there yet. Three quick examples:

• A library on the East coast worked with a patron to download the voting and registration statistics for the 1994 election (information previously in print but now available only online). The librarian found the file on the Census Bureau's web site, not because there was any good indexing that pointed to it, but from previous experience the librarian "knew it was there." Because of the file format, the tables retrieved in the download process were completely unreadable. It took three experienced computer technicians over 3 hours to determine the problem and perform the 29 steps necessary to download and re-format the publication into a usable format for the patron.

 A librarian in the Midwest was anxious to receive a copy of the Draft Report to Congress on the GPO Study. It took him nearly an hour to download and print the document, which is only about 150 pages long. Since the library's printer cannot do two-sided printing, the

printout is more than 1.5 inches thick.

• A library on the West coast attempted to obtain a copy of Preparing for the 21st Century: An Appraisal of U.S. Intelligence. This is the first depository publication available exclusively via the Internet. It took nearly 2 hours to perform the 78 different steps necessary to download and print the publication, which is only about 200 pages long. The final product had no title page, no table of contents with page numbers on it, and was printed single-side, wasting paper and space.

These examples do not come from libraries that we typically consider to be electronically challenged (i.e., small, rural, poorly funded public libraries); they come from Harvard, Notre Dame, and UC Berkeley, respectively. Well supported research libraries with direct T-1 Internet connections and high-end computer equipment. These libraries are the cream of the crop, and they too are struggling

mightily to cope with the challenges of electronic access.

In the example I mentioned earlier of the Brown student and the "Green Book," those 16 Internet-accessible computers in the Rockefeller Library make me the envy of all Rhode Island. Most of the other depositories in the state have a single workstation that does triple duty—being used for depository databases, general reference databases, and staff functions. Even at Brown, with our sixteen computers and wired dorms and offices and numerous other fully-networked computer clusters all over campus—with all of these technical resources at our

disposal—we too are struggling to keep pace with and support an electronic depository collection that presently consists of roughly 1,000 CD-ROMs and a handful of government online services. When I compare this with the size of our printed collection (please see Attachment 1), it is obvious to me that we do not yet have the models or the mechanisms in place that will enable us to effectively

cope with a "mostly" electronic FDLP.

Moreover, it is imperative that we realize that the information infrastructure must also include a comprehensive and reliable support component as well. This should include training for librarians and users; well-conceived online and off-line tutorials; the development of standardized software applications and user interfaces; logical and well-organized documentation, finding aids, and user guides; and other services that facilitate the identification and use of electronic government information products. These support structures presently are in their nascent stages and must be fully supported and developed. The FDLP of the 21st century will depend heavily on these services as the reliance on electronic information increases.

In the partnership that is the cornerstone of the FDLP, depository libraries contribute substantially to making the system work. At Brown, we estimate that the Library spends approximately \$225,000 a year in support of depository services. (We are a private, mid-sized academic library that selects approximately fifty percent of the depository items available.) We willingly expend these funds because the mission of the FDLP is compatible with mission of our University and our Library. But as a partner in this contract, we must be assured that the future development of the program will not create onerous and undue burdens on our resources nor on the constituencies we serve, which for Brown, as a Senatorially designated depository library, includes the people of the First Congressional District and the State of Rhode Island. A comprehensive analysis of the costs of electronic dissemination to all parties in the system and a survey of the capabilities of libraries and users are fundamental at this time to any meaningful and thoughtful planning for a more electronic FDLP. At its Spring 1996 meeting, the Depository Library Council fully supported the Technical Implementation Analysis outlined in the Draft Report to Congress and urged GPO to pursue a means for conducting this analysis.

Libraries, the federal government, and society as a whole are indeed moving toward a more electronic future. But we must be realistic in our expectations as we plan for how quickly and how effectively we can achieve our objectives, and not lose sight of the overriding goal of improving access for the public at large.

Full Participation and Compliance

The last major point I want to make this morning is the need for program incentives and enforcement mechanisms in order to ensure government-wide compliance and full access to government information in all formats. This is an area that I would urge the Committee to closely examine in your review of Title 44. A good start would be revising Section 1902 of Title 44, U.S.C., to explicitly include electronic government information. At its Spring 1996 meeting, the Depository Library Council issued a recommendation that supported in concept the definitions of "government information," "government information product," and "government information services" as articulated in the Draft Report to Congress (Attachment D-5, page 1). These definitions should be considered for inclusion in Title 44.

The law, and the policies and procedures designed to implement it, must advance new positive incentives as well as enforceable compliance measures—both a "carrot" and a "stick"—in order to improve the present situation and ensure no-fee public access through depository libraries. The Draft Report to Congress states that "the strongest incentive identified . . . was, in fact, the one that exists in the current program: make participation as effortless and automatic as possible and at no cost to the agency" (Attachment D-4, page 2). I think most depository librarians would agree that the most important factor is to get the information INTO the program. Only then can it be systematically identified, cataloged, organized, serviced, and preserved, and thus made fully accessible and usable for the public.

From a service perspective, I think it is important to continually remind agencies that depository libraries greatly assist them in fulfilling their public information mission. The FDLP provides agencies with an efficient and effective mechanism to communicate their message and convey their information to the public at large. Agencies, quite frankly, are not equipped to cope with the volume and diversity of demands that their information generates. Depository libraries can help agencies reach and identify new segments of the public with whom they should be in contact. Furthermore, depository libraries are a valuable "test ground" and source of feedback on agency information products and services. For those agencies that realize these advantages, the Census Bureau and the General Accounting Office (GAO) for example, compliance generally is a non-

Along with whatever "carrots" are designed, however, there appears to be an increasing need for a stronger "stick." For a host of reasons, it seems that almost every week a new example is uncovered where information once serviced by and considered part of the FDLP is now no longer available through the program. To cite just a few examples:

· The Commerce Department's publication Big Emerging Markets—information compiled and edited at public expense but printed under an agreement that removed it from depository distribution.

 The Census Bureau's Hispanic Population of the United States, a part of the Current Population Reports P-20 Series, and a standard statistical source used in 1,111 depository libraries—after waiting more than a year for the 1995 edition, we recently learned that the publication will not be printed by the Bureau. Instead, it has been privately published by the National Association of Hispanic Publications as, Hispanics-Latinos: Diverse People in a Multicultural Society, underwritten and copywrited by the Phillip Morris Company.

The Daily Reports of the Foreign Broadcast Information Service (FBIS), translations of foreign broadcast media reports that are heavily used at 470 depository libraries—this information will be available only electronically through a paid subscription from NTIS' World News Connection.

- The National Trade Data Bank, a compilation of trade information from numerous federal agencies and one of the most popular depository CD-ROMs used at 1,070 libraries—at Brown, we have a steady stream of jewelry manufacturers and other people from small businesses that use the NTDB database—changes to the CD's software licensing agreement will severely constrict access to this information. Because of the high use of this product, many libraries have mounted the CD-ROM on their local area networks. To maintain that level of service for the public, libraries now must either pay \$3,000 for a network subscription to STAT-USA or individually negotiate a site license agreement with the software vendor.
- The Coastal Tide Tables, again heavily used by Rhode Islanders and other members of coastal communities, as well as researchers and others-beginning with 1996 this publication will no longer be printed by the National Oceanic and Atmospheric Administration (NOAA); it only will be available for sale from a commercial vendor.

 And now it appears that the Bureau of Export Administration's U.S. Export Administration Regulations will follow a similar path.

Through a combination of conflicting legislative directives and cost-recovery mandates, publishing contracts that circumvent the FDLP, exclusive agreements that provide copyright-like restrictions, inadequate appropriations for public information dissemination, and growing pressures to generate revenues from information products, the public is being denied access to an increasing amount of government information in all formats. The growing reliance of agencies on cost-recovery is especially troubling. Many times, even when agencies fully wish to comply with their depository and public dissemination responsibilities, they are caught in a "Catch 22" that, they believe, forces them to restrict depository

access. I would refer the Committee to Attachment D-15 of the Draft Report to Congress, "Case Study on STAT-USA Services," for an excellent articulation of the dilemma agencies face and the impact on public access.

When government information falls outside the FDLP, it becomes much more difficult for the public to find it, to access it, and to use it. There is no guarantee that the information will be cataloged or preserved, and fees and other barriers further restrict public access and limit its usefulness. As a professional librarian and a citizen, I am alarmed by the steady erosion of the public's access to government information through restrictive policies, and the lack of government-wide commitment for ensuring public access to electronic information. I urge the Committee to fully recognize the democratic, economic, educational, legal, and historical value of government information to the American people. The full value of this information is only realized when the public has access to it in an equitable, organized, and meaningful way.

Conclusion

In closing, I would like to thank you, Mr. Chairman, Senator Pell, and the other Members of the Committee for giving full hearing to these important issues, and for soliciting the input of the depository library community in that process. I have greatly appreciated the opportunity to appear before you this morning, and I thank you for your consideration of my comments.

The CHAIRMAN. We will now hear from Dr. Betty J. Turock, President of the American Library Association, with 57,000 members. That is impressive. Dr. Turock has been an active member of the ALA for more than 20 years, has served in a number of leadership positions including as a member of the ALA Executive Board Council and the Committee on Program Evaluation Support. She also served as senior adviser to the U.S. Department of Education. Dr. Turock is the author of more than 60 publications and is the founding editor of "The Bottom Line," a financial magazine for libraries. Her book, "Evaluating Federally-Funded Public Library Programs," was released by the U.S. Department of Education.

It does not say here how you got started in all of this. Would you care to elaborate?

TESTIMONY OF BETTY J. TUROCK, PRESIDENT, AMERICAN LIBRARY ASSOCIATION, WASHINGTON, D.C.

Ms. TUROCK. Actually, I was on a board of education in New Jersey, and one of my colleagues on that board was the superintendent of schools across the street. He asked me if I would like to get paid for some of the things I was volunteering to do. They had a job, and he gave it to me. And then I got my master's degree as a librarian and later, a Ph.D. from Rutgers University, where I now direct the Program of Library and Information Studies.

The CHAIRMAN. Very interesting. Please proceed with your testimony?

Ms. TUROCK. Good morning, Mr. Chairman and members of the committee. I am pleased to be here today representing the 75,000 members of the American Library Association, the American Association of Law Libraries, the Association of Research Libraries, and the Special Libraries Association. We are confident, Mr. Chairman and members of the committee, that you share our belief that access to Government information is a public right essential to our democratic form of Government.

We recognize the importance of congressional leadership and oversight continuing to ensure access in the age of electronic information. The program we have today in the legislative branch for getting Government information to the public works extremely well. Congress has already established the framework for the 21st century. Before we change or abandon current systems and institutions that work now, we have to have the essentials—that is, what is it going to cost, and what are the changes that are going to occur and their implications for the future of public access?

Librarians have been in the forefront of using new computer technology for decades, and for just as long, we have advocated digital dissemination of Government information. But digital dissemination and paper-based dissemination are not mutually exclusive. The format chosen should depend upon the nature of the material, the use it is going to be given, and the audience that

is going to use it—that is, ultimately, the people.

An effective and efficient partnership already exists between the Federal, State and local governments for the dissemination of Government information. It has worked well since the Congress established the program in the early 19th century. And thanks to the leadership of this committee, Congress in 1993 passed the Government Printing Office Access Act, preparing that partnership for the 21st century. We are on our way.

The award-winning GPO Access System is now a key component of the Depository Library Program, connecting libraries and your constituents all across the United States with crucial Federal Government information in electronic format. We can anticipate that in the 21st century, the preponderance of

Government information will be in electronic format.

Technology is going to continue to change rapidly, and Government agencies in the future, as they have in the past, will experiment and go in different directions with that technological implementation. The probability of a cacophony of information sources and mediums for public access to Government information adds to the importance of central direction and coordination and the continued Federal commitment to funding that access and dissemination.

Probably the most important obstacle to public access to Government information in the 21st century would be congressional abdication of direct oversight and fiscal responsibility for ensuring coordinated, equitable, timely, no-fee dissemination. We urge you—in fact, we urge Congress—to respond to the recent Department of Justice opinion that challenges congressional oversight of executive branch printing, a system that has been built up over 100 years, with the GPO as

the linchpin. If the pin is pulled, it inevitably will lead to fewer

publications reaching the public.

GPO has recently concluded a study for Congress that recommends a 5- to 7-year transition to a nearly all-electronic Depository Library Program. We strongly agree with that recommendation and hope that Congress will adopt it instead of the 2-year transition proposed earlier. We have additional concerns which I will summarize.

First, the technological infrastructure necessary to support

the switch to an all-electronic system does not yet exist.

Second, the transition time frame must take into account the current capabilities and readiness not only of the GPO, but also of other Government agencies, depository libraries and, most important, the American people who use them.

Third, Government information should be made available in the most usable format, including print, to best meet the

information needs of the American public.

Fourth, the Government must ensure the authenticity and integrity of electronic Government information so that users know the information is official.

Fifth, the change to more electronic program must take into account the entire life-cycle of information from its creation to its long-term access and preservation. To support that position, I would like to submit for the record an article, "Ensuring the Longevity of Digital Documents," from the January 1995 Scientific American.

And finally, the Government must ensure that Americans in every congressional district will have the same or enhanced access to Government information in depository libraries when the move is made to electronic dissemination.

The GPO plan assumes depository libraries will be able to access, download and print extensive electronic documents, charging users to recover the costs of printing information accessed electronically. It is one thing for libraries to charge for limited copying in a multi-format program, but an all-electronic program will mean that extremely long documents will be needed to be printed in the libraries for effective use. Is the cost of printing to be shifted from the Federal Government to the congressional constituents and libraries? Are already financially strapped libraries to assume the costs of printing millions of pages of Government information? Some might call that an unfunded mandate.

We believe that changes to the Depository Library Program must maximize electronic efficiencies while guaranteeing broader, more equitable and long-term public access to Federal information.

We urge the committee to affirm these principles: That the dissemination of Government information should remain in the legislative branch; that the Federal Depository Library System is the bedrock of such a dissemination system; that Government

information through depository libraries should be at no further charge to the public—they have paid once through their taxes—that legislative changes should be enacted so that Government information, whether created by the Government or by those who produce work for the Government under contract, be included in the program for free access by the public. We emphasize the need for the technical implementation assistance recommendation in the GPO's plan and for a comprehensive study of your constituents' capabilities to obtain and use Government information in electronic formats.

Data on the Nation's existing technological infrastructure and on current capabilities of agencies, libraries and users are crucial to making informed and correct decisions.

We are moving to a totally different communications medium when we move to electronic dissemination, and we cannot just move what we do in print electronically. We have to make certain that these very costly moves are going to be the correct ones.

We believe that the issues which I have just presented are the critical issues to be addressed before the transition is made to

any further electronic program.

We appreciate this opportunity to testify before this committee and certainly appreciate the past support you have given depository libraries and the support that I hear this morning for the future.

Thank you.

[The prepared statement of Ms. Turock follows:]

Prepared Statement of Dr. Betty J. Turock, Professor, Library and Information Studies, Rutgers University

I am Betty Turock, President of the American Library Association, and Professor of Library and Information Studies at Rutgers University. Today I am representing ALA, the American Association of Law Libraries, the Association of Research Libraries, and the Special Libraries Association. ALA is a nonprofit educational organization of 58,000 librarians, library trustees, and friends of libraries dedicated to promoting the public interest in a free and open information society. AALL is a nonprofit educational organization with more than 5,000 members dedicated to serving the legal information needs of legislators and other public officials, law professors, and students, attorneys, and members of the general public. ARL is an association of 119 major research libraries in North America; ARL programs and services promote equitable access to and effective use of recorded knowledge in support of teaching, research, scholarship, and community service. SLA is a nonprofit international association of nearly 15,000 information professionals whose mission is to put knowledge to work in the information society.

I am pleased to be here as you consider public access to government information in the 21st century. Particularly, I will focus on the role of the Federal Depository Library Program administered by the Government Printing Office in

meeting the mandate for an informed citizenry.

My testimony covers four main points: First, we emphasize the importance of Congressional leadership and oversight in ensuring public access to government information. Second, we recognize that the program we have today in the legislative branch for getting government information to the public works extremely well; Congress already has established the framework for the 21st century. Third, we warn of the need to look before we leap, and to know the costs and im-

plications of changes before we abandon current systems and institutions. Fourth, we repeat the obvious: librarians have been in the forefront in effectively using new technologies for decades and have long advocated electronic dissemination of government information in digital format while recognizing the continued need of paper-based government information based on the nature of the material, its use and audience.

Public Access to Government Information in the 21st Century

I am confident, Mr. Chairman, that you share our belief that access to government information is a public right essential to our form of government. A democratic society depends on equal, ready, timely, and equitable access to government information, regardless of format. Government information is a basic building block of the information infrastructure, as are libraries. Disseminating government information through libraries has been an effective partnership between libraries and the government, and should continue to be extended into the electronic environment. We can anticipate that in the 21st century much dissemination of government information will be electronic. Technology will continue to change rapidly. The services, hardware, software, and digital formats in use today may not be around in the future; they are not permanent. Nevertheless, we need to maintain the ability to access data now available through such means.

Government agencies will be experimenting and going in diverse directions; there will be continued pressure on government spending, continuing challenges to improve the literacy of our citizenry, continued interest by the commercial sector to take over and privatize information resources—with no responsibility for no-fee or equitable access or even to archiving, preservation or broad dissemination to the public. The probability of a cacophony of information sources and mediums for public access to government information adds to the continuing need for a central, coordinating entity and federal commitment to funding that access and dissemination.

Indeed, probably the most important obstacle to public access to government information in the 21st century would be Congressional abdication of both direct oversight and fiscal responsibility for ensuring equitable, timely, no-fee dissemination in a coordinated and effective manner. The first signs of this abdication have appeared in the premise that sending out nearly all government data electronically holds the key to saving money.

The Importance of Congressional Leadership and Oversight

We appreciate the Senate's commitment to providing timely and equitable access to government information to the public. Last year when the House of Representatives moved precipitously to halve the appropriations for the Federal Depository Library Program, the Senate convinced the House to continue funding for the program and to initiate a study by the Government Printing Office that would assist Congress in redefining a new and strengthened information dissemination policy and program. In March, GPO—after an open and collaborative process—released a draft report to Congress, Study to Identify Measures Necessary for a Successful Transition to a More Electronic Federal Depository Library Program. Attached to this testimony is an April 26, 1996 letter to Public Printer Michael DiMario from four major library associations, telling him that we appreciate that many of the comments and concerns about GPO's December 1995 transition plan were incorporated into the March draft study. Additionally, the letter stresses many areas of continued serious concern and importance to the members of the four associations concerning GPO's draft study.

Critical Data Needed

Critical is the lack of data to substantiate many of the study's recommendations. We remain very concerned that although some useful information was gathered during the study process, neither the draft report, the models developed as part of the task force reports, nor the strategic plan are based on substantive data regarding costs to and capabilities of the government, libraries or the public to produce, access and use predominately electronic information. We believe that a technical scan is necessary and we urge Congress to approve funding for the

Technical Implementation Assistance which the report proposes. We also suggest that a comprehensive study be undertaken among all partners (GPO, agencies, the National Archives and Records Administration and participating libraries) to guarantee permanent long term access and preservation. These critical issues are the responsibility of the government and they must be comprehensively addressed before the transition plan is implemented.

In the March study, GPO recommended a 5- to 7-year transition to a mostly electronic depository system, a more realistic time frame than the 2-year transition proposed last December. We have long supported a more electronic program and urge Congress to accept the Public Printer's recommendation for a longer transition period. At the same time, we are concerned that the transition chronology in the March study states that 50 percent of all the publications available to depository libraries will be in electronic format by October of 1998. If this includes the addition of databases such as those at the National Library of Medicine and the Securities and Exchange Commission that are not now in the program, public access will be improved. But if it means the massive conversion of publications now available in dual format, paper and electronic, we are concerned that many library users will be disenfranchised and future access to the information will be jeopardized.

The issues of long term permanent access and preservation are central to the transition to a more electronic program. The library community is especially concerned that the March study offers no specifics, no data, no costs and no assurances. The attached letter to the Public Printer points out that the questions are very basic ones; first, how do we assure that electronic information will be available and usable next month, next year, or in 25, 50, or even 100 years from now; and second, who will be responsible for ensuring long-term permanent access. In shifting long-term access from depository libraries to the government, as the draft study suggests, we must be assured that funding will remain adequate so that the government can refresh and migrate information. Otherwise, our national historical records will disappear into a black hole and the advantages of electronic information will be nullified.

Congress Has Established the FDLP as the Framework for the 21st Century

Congress began at least 15 years ago to move the Federal Depository Library Program into the 21st century. Thanks to your leadership, the FDLP has become a good example for other library programs in the use of electronic technology and the Internet. Congressional leadership in this area included: the work of the Joint Committee on Printing Ad Hoc Committee on Depository Library Access to Federal Automated Data Bases in 1983-84; the direction of the Joint Committee on Printing to the Government Printing Office to distribute publications in electronic formats to depository libraries; and the GPO's electronic pilot projects, which explored the best options for providing depository libraries with access to electronic products and services.

Thanks to the leadership of the members of this Committee and your House colleagues, Congress enacted the GPO Access Act, P.L. 103-40. The award-winning GPO Access system is now a key component of the Federal Depository Library Program, providing a valuable service to the American public by connecting libraries and the public with crucial federal government information sources in electronic format. Clearly, the sponsors of the GPO Access Act recognized that ensuring no-fee, timely and equitable public access to government information is essential to America's right to know as, increasingly, federal agencies use computer technology. Attached to this testimony is a resolution commending Congress for providing the public with free direct online access to GPO Access services.

Equitable Public Access to Government Information Through Depository Libraries

To help fulfill its responsibility to inform the American public of federal programs and policies, Congress established the Federal Depository Library Program to provide no-fee, geographically dispersed access to government publications. The framework for the current depository system was established in the

mid-19th century when depository designation was assigned by Members of Congress, with the intent to provide distribution throughout the country. The driving forces for establishing the depository library system were to provide access to government information both uniformly throughout the country (that is, in every Congressional district) and without regard to economic means (that is, at no charge to the user). This intent reflected a commitment to broad-based democracy—keeping the populace (not just the wealthy or landed gentry, and not just those in the Northeast) well-informed. Today, it is even more critical that all Americans, whether in rural or urban communities and regardless of their economic status, have equitable, ready and timely access.

Expert service in helping your constituents locate and use government information is provided daily in the almost 1,400 depository libraries located in nearly every Congressional district. These libraries invest funds for staff, space and equipment to provide the public with ready, efficient and no-fee access to government information. Libraries are equally committed to providing access to the broad and growing array of electronic products and services—which require a further investment in equipment, additional and highly trained technical staff,

and greater service requirements to assist library users.

As more and more information becomes available electronically, there is an assumption that centralized administration of the Federal Depository Library Program is no longer necessary. Yet the program in a distributed electronic environment requires coordination to bring all participants together on issues such as:

 standardization and guidelines to ensure ease of locating information and guarantees of long-term access;

 the availability of no-fee access to all government information, including fee-based products and services, through depository libraries; and

usability.

The complexities of these issues, particularly when many agencies are creating their own web sites, seems to be underestimated. Further, coordination is needed for depositories to deal with a vast number of online publishing entities in a distributed electronic system. And some in government appear to underestimate the administrative burden and inefficiencies of having nearly 1,400 libraries contacting each agency individually for materials and support.

Another frequent assumption is that electronic government information that might be made available over the Internet, for example, will be uniformly and equitably distributed across the country. This assumption is not—at least yet—correct. There is still a large percentage of adult Americans who do not have access to the Internet. In October of 1995, the Nielsen Company released a major survey of Internet access. It showed that 6.7 percent of persons 16 and older in the United States and Canada had access to the Internet at home, 5.8 percent had access at work, and 3.2 percent had access at school. A later study released early this year, and reported in the January 12th issue of the Wall Street Journal, put the figure at about a third of that level. These surveys have attracted criticism for their methodology, and they indeed may not be precise. Nevertheless, they do suggest that Internet access, while growing rapidly, is not yet as widespread as some enthusiastic press reports may imply.

Furthermore, of the percentage of the public who currently have Internet access, only a fraction have access with reasonably high speed Web browsing capability. For instance, at current network speeds it would take over an hour to download a two-hundred page document such as the Administration's White Paper on Intellectual Property. A document with significant charts, figures, or photographs, would take a much greater time. To download, store, and read the information on-line would require a workstation with a reasonably large and stable display screen and substantial disk storage. To print such a document requires access to a quality high speed, affordable printer. Few depository or other libraries, and certainly no other public institutions, are now equipped with such technology for public use, especially if they will be called upon to serve the approximately 95 percent of the population that does not yet have Internet access.

According to GPO's 1995 Biennial Survey of depository libraries, 67 percent of the depositories are housed in academic institutions, 20.4 percent are in public libraries, while the remainder are in specialized libraries, such as those in federal and state agencies. Of the academic libraries, approximately half have Internet tools for their primary users (students, faculty, etc.). But, only 32 percent of responding depositories currently provide the kind of robust workstation configuration necessary to provide equitable public access to government information through the Internet.

According to a 1996 survey conducted by the U. S. National Commission on Libraries and Information Science, 44.6 percent of public libraries are connected to the Internet. Although this is a 113 percent overall increase from 1994, preliminary survey analysis indicates discrepancies in public library Internet connectivity based on size of population served. Public libraries serving populations under 5,000 in 1996 are 58.6 percent less likely to be connected to the Internet than those libraries serving larger populations of 100,000 to more than 1 million. There also appear to be significant regional differences in public library Internet-connectivity and Internet-based service offerings.

GPO Draft Study

GPO's draft study assumes that the government's responsibility to distribute information to the public is met when the information is made electronically available. It also assumes that depositories will be able to access, download, and print documents for users who need them. Thus there will be, as a practical matter, large printing costs required to make much government information accessible to the public. Today those costs are borne up-front by GPO, through appropriated funds—before the information is distributed. Who will bear the costs under GPO's new electronic distribution system? Is the cost of printing to be shifted from the federal government to Congressional constituents and libraries? Already financially strapped libraries cannot necessarily assume the costs of printing millions of pages of government information. For a Congress whose first major enactment was the Unfunded Mandates Reform Act, this new approach to distributing government information will not pass the test of avoiding the imposition of financial burdens on local and state units of government to implement federal programs.

In the resolution regarding a transition to a more electronic federal information system (also attached), ALA urges Congress to reaffirm the Government's responsibility to provide federal information in a format most appropriate to the public's needs.

FY 1997 Appropriations Request

GPO has requested \$30,827,000 for the Superintendent of Documents Salaries and Expenses, of which \$27,197,000 will maintain the Depository Library Program. We fully support GPO's request for an additional \$500,000 for technology grants to assist the more financially strapped depository libraries so that they may acquire technology to participate in the program. The strategic plan says that the technology grants are intended to ensure reasonable public access and proximity to at least one electronically-capable depository in every Congressional district. But a number of states such as Alaska, Montana and Wyoming comprise one district. Thus, some large states could receive funds for only one library, resulting in geographic barriers for those who live far distances from that depository.

A better approach would be to ask each state to come up with a plan that would enable all depositories to be connected to the Internet and therefore to the GPO Access system. This might include providing basic equipment to the poorest of the libraries and purchasing net access software for every depository without it. The underlying philosophy of the program is that those libraries designated depositories will serve every citizen in their district and, in the case of regionals, everyone in their state.

It is imperative that policy makers remain fully committed to the government's obligation to provide no-fee public access to information created at taxpayer expense. This principle is the cornerstone of the Federal Depository Library

Program and has served the nation well. Millions of Americans take advantage of the efficient and effective FDLP every year. A 1989 GPO study estimated that, at a minimum, 167,000 people use depository libraries every week. Since the 1994 implementation of the GPO Access system, dozens of depository library gateways have broadened and extended the GPO system, configuring these services in ways that best suit local needs. Currently, the GPO Access System averages between 2 and 2.5 million document downloads a month. The use of electronic technologies to produce and disseminate government information has been substantial throughout the federal government. As a result, the public has broader access to valuable information in a more timely, efficient and effective manner.

We remain very concerned, however, that the rapid transition to a nearly all electronic FDLP is viewed by policy makers not in terms of increased public access, but as a way to reduce costs to the federal government. There are in fact no cost data to prove this assumption, at least in the short term. The costs of transforming the program may well be greater than Congress believes. We reiterate our belief that federal information policy decisions should not be used as a way to reduce costs to the federal government without considering the effect on the public and their ability to access information so they can function fully as citizens. FDLP funding must be adequate to ensure that the steady flow of federal information will continue to every Congressional district and that valuable government information is not lost. Clearly, under the GPO proposal, significant costs will be shifted to Congressional constituents and to libraries, while some costs will shift back to the federal government.

Library Investments on the Information Superhighway

Like the interstate highway system, the information superhighway will require continuous construction and maintenance. We have begun our global construction with vigor, purpose and hope. A project so grand depends on a mighty vision, and on the skills of every construction worker. Librarians are essential partners in the process of designing systems that attend with care to the needs of millions of independent learners—learners who must one day understand and support integrated, efficient, useful and sustainable information and communication systems. Librarians are ahead of the information curve to anticipate users' needs, to help shape information tools and search strategies, and to support the information-gathering habits of users so that Americans can compete in the global marketplace.

Librarians are buying hardware and the connections for two-way transport on the telecommunications highways, the information country lanes, and urban side streets. Libraries are equipping staffs with skills and tools appropriate to information-age work. This takes time and additional resources. And often, the essential reference tools and software systems that render federal information systems accessible and useful, many produced by the private sector, are costly. We must have the time to plan and implement a comprehensive system with multiple formats, creative linkages, feedback, user guides, resilience, and sustainability.

Librarians represent the interests of users—entrepreneurs, students, researchers, elected officials, health care providers, parents and families, information brokers and information businesses. These users depend upon the nation's public, school, corporate, museum, health science, legal, college and university, research, government and other special libraries and librarians as starting points, interchanges, and destinations on a fast-moving thoroughfare. Library users know that this information highway cannot bypass them but must link all neighborhoods with the information arteries that enable residents to stay and prosper in their communities.

There is a powerful force at the core of all the work librarians do—as selectors, organizers, archivists, teachers and marketers of ideas and information. Our users are smart. Their information needs are real, important, and diverse. The wisest investment our nation can make is to construct and maintain useful information access ramps into and out of our federal government.

Conclusion

Thank you for the opportunity to testify today. We believe that any and all changes to the Federal Depository Library Program must maximize the efficiencies of an electronic program with the guarantees of broader, more equitable, and long-term public access to federal information. ALA, AALL, ARL and SLA urge this Committee to unequivocally affirm the principles that are the foundation of the Federal Depository Library Program:

· that the dissemination of government information should remain in the legislative branch under Congressional jurisdiction,

 that the Federal Depository Library system is the bedrock of such a dissemination system, · that government information through depository libraries should be

at no charge to the public, and

 that legislative changes should be enacted in order that government information, whether created by those who work for the government or those who produce work for the government under contract, be included in the Depository Library Program for free access by the public.

We also urge the Committee to affirm the principles for federal government information as stated on pages 4-5 of the recent draft report to Congress, Study to Identify Measures Necessary for a Successful Transition to a More Electronic Federal Depository Library Program.

Principle 1: The Public Has the Right of Access to Government Information

Principle 2: Government Has an Obligation to Disseminate and Provide Broad Public Access to Its Information

Principle 3: Government Has an Obligation to Guarantee the Authenticity and Integrity of Its Information

Principle 4: Government Has an Obligation to Preserve Its Information

Principle 5: Government Information Created or Compiled by Government Employees or at Government Expense Should Remain in the Public Domain

Additionally, we would like to emphasize the need for the Technical Implementation Assistance that is recommended in GPO's strategic plan and for a comprehensive study of user capabilities to obtain and use government information in electronic formats. Data on the nation's existing technological infrastructure and on the current capabilities of agencies, libraries and users, are crucial to making informed and correct decisions. These critical issues must be addressed before the transition to an almost electronic program is made.

We believe the informational needs of the American people will be properly met only if all participating libraries and the their users are ready for this dramatic change in the way Americans will obtain information by and about their federal government. Without such assurances, our nation will suffer economi-

cally, politically, and intellectually.

[Attachments are included as Appendix A5.]

The CHAIRMAN. Before we proceed with Dr. Vernon, my first question to all panelists will be the extent to which they concur or the extent to which they do not concur with the testimony given by Mr. Kelley, so if you could sort of prepare yourselves for that, I would appreciate it.

Now, Dr. Vernon. You are a professor at Saint Leo College in Florida.

Ms. VERNON. It is in Florida, but we have a large military program in the Tidewater. We have several thousand students at the military bases.

The CHAIRMAN. And you are actively associated with that program in the Tidewater region?

Ms. VERNON. Yes. I am their librarian.

The CHAIRMAN. I see. Ms. Vernon is a resident of York County, Virginia. She is a professor on the faculty at Saint Leo College and is responsible for library support for the students. She has been president of the Virginia Library Association—that is quite a distinguished position, I might add.

Ms. VERNON. We think so.

The CHAIRMAN. I doubt if I could ever qualify for that.

She was also chair of the Committee on Legislation for the American Library Association. She holds a B.A. in classics and an M.S. in library science from the University of Oklahoma, and an Ed.D. in higher education administration from Nova Southeastern University. That is interesting—a B.A. in classics. My father got a B.A. in classics at Washington & Lee University in 1903, and he became a medical doctor and an expert surgeon, and until the day he died, he could read and write Latin and Greek—remarkable—none of which I was able to acquire.

Dr. Vernon?

Ms. VERNON. My husband was a graduate of Washington and Lee.

The CHAIRMAN. What year, might I ask?

Ms. VERNON. Forty-eight.

The CHAIRMAN. He was one year ahead of me.

Ms. VERNON. He was in Charlie McDowell's class.

The CHAIRMAN. Oh, yes, I remember Charlie; Charlie is still active.

Ms. VERNON. Senator Warner, congratulations.

The CHAIRMAN. Thank you very much. Did the vice chairman note that for the record?

Senator FORD. Democrats could vote for him in the primary, but look out in the general election.

[Laughter.]

The CHAIRMAN. I knew that was coming.

Ms. VERNON. Senator Ford, if you want to respond to your grandson, just punch "R" and fill in the blanks.

Senator FORD. You know, as a user of libraries—and you are an extensive user, I understand—do you have a little extra time you might teach some of us old gray heads how to punch the buttons?

Ms. VERNON. Absolutely. You bet.

TESTIMONY OF CHRISTIE D. VERNON, SAINT LEO COLLEGE, YORKTOWN, VA

I want to say that I had not seen Senator Warner's previous statement about some of the problems with Title 44; I had never met Mr. Kelley or Mr. O'Mahony. And what amazes me is that much of what I have to say is reinforcing of those very things, which we can talk about more if you like.

I am not a wizard; I am not a Government documents librarian. I think it is an arcane subject for which I have enormous respect. I am more or less a human gopher. I am just out there, tunnelling around in all of these information systems as best I can. And I do have a lot of stories to tell about wasted time and the bewilderment and frustration that I have in dealing with the Government information systems—and I have, as you know, pretty good qualifications to do that, and I still find it very difficult. So I have grave concerns about what it continues to be like for the ordinary citizen, and I will emphasize in my testimony the importance of the human interface of people to help other people with the systems.

All of this is very costly. Any time wasted because we are searching for things that ought to be in the file costs businesses

and individuals and libraries a lot of money.

My testimony is based on three or four postulates which I call "Vernon's postulates." My postulate number one is that in the new language for Title 44, we should rename the Government Printing Office and call it the Government Publishing Office. The word "printing" is somewhat archaic, and it leads us into the use of words and into patterns of thought that are not useful anymore.

We have so many formats at our disposal—books, magazines, television, radio, microfilms, audio and video tapes, computer programs, databases, and Internet access—and we know from experience that, with the possible exception of the papyrus scrolls, none of these media have actually ever replaced any of the others. The more we get into the action media, the more books are published and the more books are read, and I think that that is going to be true with the electronic access as well.

The function of the GPO is to publish Government information in its most useful format, and there is a wealth of experience to tell us how these formats are most useful. We are not—and this is where I think the new proposal is wrong-headed—we are not going to convert the whole Government information system into electronics. We are going to add the electronic format to the other formats and publications which we currently use as appropriate in their own setting. I think that that is important to emphasize, as some others have.

The second very important function of the GPO is bibliographic control, which they have addressed. They have got to know where the documents are, and they have got to classify them. If that is not done, you will have the Tower of Babel, so that is the second most important function of the GPO.

My second postulate is that there is no such thing as cost saving in Government—there is only cost shifting—and that cost

is often shifted, unintentionally and even unbearably, to the shoulders of those least able to carry it.

I have a good friend who is a York County supervisor, and I ran this testimony by her. I asked: "Mary, what do you think?" It took her 2 seconds to say: "Right. Instead of being able to use your taxes to buy a \$25 book that everybody can copy, you want me to spend \$50,000 or \$100,000 to provide what is basically a peripheral printing system so that I have to provide staff, equipment and software and training and space and reams of paper so that people can come here and publish what has previously been published elsewhere."

One of the problems with this also is that we are all tempted to push "P" for "Print" and print out a 200-page whatever it is, and then use one page of it and discard the rest. I think we need to look very carefully at what the implications for cost are of this peripheral printing because it may result in extraordinary costs to the American taxpayer and waste of resources if we do not

really think it through.

I have had quite a lot of experience getting documents, especially for Government people, students, and small businesses—patents, standards, NATO standard agreements, public laws, CFRs, Board of Contract Appeals cases, NASA documents. I had to get a document once from the U.S. Air Force Weather Service, and I finally tracked it down with an officer in Boulder, Colorado and got him to get it out of his desk drawer and copy it for me. This is the reality of searching for Government information.

The two major problems I mention are: First, the egregious noncompliance with Title 44 requirements to distribute Government publications to the Depository Library System; and second, that budget pressures on agencies—for which, to some degree, Congress is responsible—have caused managers to sell their "information children" into bondage to the commercial market. They are exploiting their information resources, which I think we fail to appreciate are extremely valuable, and they are using the sale and the lease of our public information resources to balance their budgets because nobody has figured this out yet, and nobody has made it plain to them that this is not an acceptable form of balancing the budget.

I have included three examples—one from NTIS, one from the Department of Energy, and one from the Department of Defense. As I said, I am only speaking from my own experience about difficulties that I have had with NTIS, with the fact that they have no 800 number, that they are letting other people publish their materials, and especially—it is attached to my testimony—when I saw the notice that they were having a secret meeting, and the public could not go to the meeting because they were developing a business plan. I do not think the NTIS should

act like the NSA.

The CHAIRMAN. Well, it came as something of a surprise to those of us here on the committee, and we are going to look into that. I am told by staff that there are literally hundreds of statutes that conflict with Title 44 and that that is one of our major problems, to determine all of the impact—

Senator FORD. Mr. Chairman, I have written letters to every executive agency in Government, trying to draw conclusions that they are outside of title 44; and you beat on them and beat

on them and beat on them, and they keep right on going.

Ms. Vernon, you gave three agencies there, and Department of Defense is the biggest one. As I recall, they even advertise for printing work. So here is the Department of Defense advertising for outside printing, and we are trying to operate under Title 44.

Now, if you have something that is secret and should be documented, I have no problem with that; but just to advertise for printing outside Government work, we have gone far beyond—the NTIS is just another add-on, and the first thing you know, we will find the erosion. I can give you agency by agency by agency over the years that we have informed what Title 44 is, and if we do not have some control over it, as the chairman has said, then we lose all of what you are trying to do.

Our University of Kentucky regional library funds about \$1 million a year, which is no cost to the Government; they put that money in for housing, for dissemination, for personnel-for all of that—and that is the only way and the real way. We have been

leaning on the depository libraries forever.

Ms. VERNON. And this will increase that leaning exponentially, and it will also lean on little public libraries all over the State of Virginia and elsewhere that simply do not have the resources to respond to this requirement.

Senator FORD. I still like Thomas Jefferson, and I think we ought to follow his leadership even though he is not around, Mr.

Chairman.

Ms. VERNON. I fully subscribe to that.

The CHAIRMAN. You have no quarrel with the chairman.

Ms. VERNON. No; even though Kentucky is no longer a part of Virginia—

Senator FORD. Well, we got smart.

Ms. VERNON. I do not mean to digress. I would like to talk to you briefly about the particular problem that I had with the Department of Energy.
The CHAIRMAN. May I interrupt?

Ms. VERNON. Yes.

The CHAIRMAN. Senator Ford and I have been great friends for many, many years. I just want to say that I carried this little statement with me throughout the last 6 months of a rather turbulent period of my life. Jefferson said: "I had it laid down as the law to myself to take no notice of the thousands of insults issued against me, but to trust my character to my own conduct

and to the good sense and candor of my fellow citizens." That pulled me through.

Thank you.

Senator FORD. Would you like my quote?

The CHAIRMAN. Yes. Go right ahead.

[Laughter.]

Ms. VERNON. That is wonderful.

The CHAIRMAN. It is wonderful. It says a lot about the great people in this country if we just trust them, and that is essentially what we are covering in this hearing.

Ms. VERNON. Virginians are smarter than some people

sometimes think.

[Laughter.]

Ms. Vernon. I would like to explain the particular problem that I had with the Department of Energy and the Department of Energy database. I was asked by a scientist to get a copy of a document to advance his research, and along with his request came a xeroxed instruction to me, saying that our company should call DIALOG and ask for a custom search.

There was no telephone number given to the Office of Scientific Information with the Department of Energy, only an 800 telephone number to DIALOG. Well, because of my experience, I knew that this would be very expensive for this small company, so I called the documents librarian locally, at William and Mary, and I got a telephone number for Oak Ridge, and I called the librarian in Oak Ridge, and I said, "What, ho! Surely there must be public access to your documents. I should be able to buy them. I do not have to go and get a custom search."

And the explanation, which is here in my testimony, was that the Department of Energy database was sold long ago to DIALOG; they have access to it only for a limited period, even for their own employees. So that the public does not have reasonable access to it except for this small window, and therefore access to it through DIALOG is fairly expensive. And this was a matter of policy decided many years ago, not the fault of the current people. But I have other examples to show you that this is essential to your construction of policy, that is, what kinds of deals are made with the public agencies for public free access and for commercial vendor access as well.

The other thing—and I have to laugh about this—I got a request from a gentleman who had a bootlegged copy of a report which was done for an army command in Alabama by a big research company. He had taken it to Kinko's to copy—it was a Government document, after all—a research company had published this report, done all the work under Government contract, then paid by the taxpayer, done the publication under Government contract, paid by the taxpayer, and put "Copyright" on the title page of this Department of Defense report, so Kinko's would not copy it.

The scientist said to me: "I should have just torn the page out

and copied it anyway."

I went to the command library, and they did not have a copy of the report. I went to the company library, and they did not have a copy of the report. I went to NTIS and DTIC, and they did not have a copy of the report. Everything you can think of had been violated in this whole arrangement. Nobody was meeting his obligations for archiving. They were putting "Copyright" on it gratuitously, and the whole system breaks down.

My summary of DOD noncompliance is that they publish independently and through contractors without following the rules for depositing with GPO, NTIS or DTIC; they do not deposit copies where they should be available; they do not cooperate in bibliographic control, and they seem happily unaware that they are even part of the Government information

universe.

There you are. I arrived at this conclusion totally independently. I did not have access to any of your materials.

Now, I have a model for the good guys. The good guys in my opinion, for example, are the National Institutes of Health's National Library of Medicine. They have the MEDLARS database. You can get from NLM a copy of their software, which is called GRATEFUL MED; I love that. It is free, and you can install this software on your computer, and you can organize your search on their software. It logs you into the big computer, does your search in a couple of seconds. The average cost for a search by an individual from the National Institutes of Health database is 23 cents.

Now, why are they so different in their outlook? Perhaps it is the combined ethic of the health provider community and the library community, and they say to themselves: This is important public information. It should be out immediately for the sake of the public welfare, to the widest audience at the lowest cost.

So my third postulate is that when you are developing policy principles for title 44, you should reflect on this ethical statement, and you should give the widest flexibility as to the forms of publishing and disseminating, depending on the needs of the users. But always, this ethical question should be in the forefront: How do we get it to the widest possible public at the least expensive cost?

I went up on five databases, and I did searches. I went into GPO and ERIC, which are publicly available. I did AIDS and WOMEN, printed 10 hits, \$9. MEDLARS was only \$5. But to access and do the same search, and print the same number of hits

on NTIS and Energy, was \$23.

So that obviously, the principle here is that when you make available, at reasonable cost with good software, direct access or Internet access to these databases, the vendors do not charge as much—the contracts are different, and the vendors do not charge as much. Vendors should have access to government

information. DIALOG is a wonderful service, and they should make a reasonable amount of money on it. But there should be some kind of uniform policy so that some agencies are not going only through vendors and other agencies are going to the public, because I believe the public is entitled to it.

I have a few recommendations. One, Congress should exercise continuing oversight of the Federal function we will now call "Government Publishing."

Second, all agencies need to be included, and the compliance requirements should have teeth.

Third, bibliographic control is a basic need to stem the tide toward incoherence in the system, and it should be a GPO responsibility.

Fourth, the possibility of significant costs and the waste of resources is not sufficiently analyzed in the present study. They have just moved too fast in terms of the unintended consequences of this conversion. We are a clever people, and we can make the needed transitions easily if we are not forced to do it in an artificial way.

Fifth, Congress should affirm the obligation of the Federal Government to disseminate Government information. The basis of public policy should be the ethical principle that public information belongs to the public and should be delivered to them by methods affordable to all. Private vendors who wish to provide enhanced products may do so, should do so, and patrons who can afford to utilize these products should have access to them.

Sixth, agencies should be cautioned not to balance their budgets by devouring the public's information resources—I think that is an issue that has not been fully explored—since they are essential to economic growth and the functions of a democracy. Information is what permits a person or a business to be productive. If wealth is the main consideration in having access to information, especially public information, we are in a lot of trouble.

Seventh, cost assessments for the on-line era must incorporate the fact that the need for human intelligence to mediate between the information-seeker and the resources will be even greater in the electronic environment. More people will need more help with more complex processes. The computers do enhance our human powers, but they have not replaced us entirely just yet.

In summary, the printed publication, universally distributable, inexpensive to own and use, with important educational functions and pictorial qualities will continue to be essential. Large databases are equally essential but entirely different in their usage. Please keep in mind the books on our National Parks, our AIDS health pamphlets for teenagers, our consumer booklets, and the many other essential and beautiful

publications as you continue your debate on the budget for the U.S. GPO.

Thank you very much.

[The prepared statement of Ms. Vernon follows:

Prepared Statement of Christie D. Vernon, Saint Leo College, Yorktown, VA

INTRODUCTION

My name is Christie Vernon, and I am testifying on my own behalf as a user of government information, and as a mediator for patrons and clients in securing documents they need for personal use, research, or in the conduct of their small businesses.

I am not a certified Wizard (as I think of the Government Documents Librarians), just a Wizard's Apprentice. Perhaps you could call me a human gopher: I tunnel through a maze of agencies, information sources, and personal contacts. It is a fascinating kind of sleuthing, and I pride myself on always getting my document. I wish to state, with no false modesty, that for every 1 thing I DO know, there are 100 things that I DON'T.

But I do have stories to tell about the wasted time, the bewilderment and frustration I experience, dealing with a system that to a large extent is idiosyncratic and non-compliant with Title 44. I find that agencies don't observe their own rules for filing and archiving. As you can understand, all the time wasted is cost accrued to the individual or to the business- even before the costs of using a database, or purchasing a document.

VERNON POSTULATE #1: In the new language for Title 44, we should rename the Government Printing Office and title it the Government Publishing Office.

The word "printing" is archaic, and leads us into the use of words and into patterns of thought which are no longer useful. Today we have many formats at our disposal, all of them wonderful in their appropriate domain: books, magazines, tv, radio, microfilms, audio tapes, video tapes, computer programs, databases, internet access.

We know from experience that (perhaps with the exception of papyrus scrolls) no format has really replaced another. The explosion in the use of media has been accompanied by an explosion in the purchase and use of books. As we all know, to our sorrow, when we get a 1-ounce computer program, we get a 5-pound book that promises to tell us what to do. The idea of a "paperless society" was always a chimera.

So, the chief function of the GPO is to PUBLISH government information in whatever format is most useful for its public. There is a wealth of experience available to inform us when the paper copies are best, or when fiche, or disk, or online access is best. WE are not CONVERTING to a total on-line environment, we are, rather, ADDING the wonders of on-line access to our bag of already wonderful tricks.

The second important function of our Government Publishing Office, is to serve as the center for BIBLIOGRAPHIC CONTROL of government publications. From my perspective, this control needs to be increased, not diminished.

I am here to tell you stories to support this view.

VERNON POSTULATE #2: There is no such thing a "cost saving" only "cost shifting", and that cost is often shifted, unintentionally and even unbearably, to the shoulders of those least able to carry it.

I discussed this testimony with a friend who was a County Supervisor, explaining the proposition that government documents would enter an almost entirely on-line environment. It took her about 2 seconds to lift her eyebrows and say: "That is just another one of those . . . UNFUNDED MANDATES. To save my taxpayers from buying a \$25 book that everyone can use and copy, I am now required to tax you to supply at least \$50,000 in computers, communications,

space, expert staff, and reams of paper to support a peripheral publishing operation. Thanks a lot!"

Depositories and other libraries will have to do their own "cost shifting" onto patrons, and to the extent they are successful, the individual—or the small business—is that much more disadvantaged. It will amount to a significant tax, on which there has been no consensus.

And there is the larger issue of promoting waste of resources in general. It is human nature to push the PRINT button, print out a whole file, use one item, and then discard the other 20 pages. (Who among us is innocent?)

MY EXPERIENCE IN THE GOVERNMENT INFORMATION LABYRINTH

The mention of cost leads to my experience in helping small business clients find documents they need, usually to bid on a government contract or to fulfill its provisions. I reviewed my files and find (for example) the following types of requests:

Patents

Standards (Military Standards, Specifications, DIDs)

Stanags (NATO standard agreements, archived at the Pentagon)

Department of Energy (information on waste processing)

Public Laws, current bills

Code of Federal Regulations (0SHA regulations for employers toxic substance disposal)

Small Business (SBA) hearings, and appeals decisions

Board of Contract Appeals cases/decisions

Publications by Contractors (for military and civilian agencies)

National Library of Medicine (MEDLARS database)

NASA documents (aerospace information generally)

Federal Register (small business regulations)

USAF Weather Service (document found in a person's desk)

MAIOR PROBLEMS ENCOUNTERED

1. Egregious non-compliance with Title 44 requirements to distribute government publications through the Depository Library System.

2. Budget pressures on agencies causing managers to sell their "information children" into bondage to the commercial market, also in egregious non-compliance with Title 44.

EXAMPLES

NTIS: The taxpayer cannot directly access the NTIS database, but only through the DIALOG commercial service, and it is too expensive there (I will illustrate in a moment). NTIS has no 800-number, and one can spend much long distance time on the phone with them. Further, the costs of their documents are escalating. The last one we ordered for a patron cost \$40. These costs are unreasonable for a public property the patron has already paid to have developed.

As I was preparing this testimony, a friend called my attention to a notice in the Federal Register of Monday, May 13, 1996, p.22025. It reads as follows:

"... notice is hereby given that the National Technical Information service Advisory Board. . . will meet on Monday, June 17,1996, from 9:00 a.m. to 4:00 p.m. This meeting is to review and make recommendations regarding general policies and operations of NTIS, including policies in connection with fees and charges for its services. The session will be closed because premature disclosure of the information to be discussed would be likely to significantly frustrate implementation of NTIS's busi-

It seems extraordinary that the NTIS should begin to operate like the NSA. And I find the use of the word "closed" in the same sentence as "information" to be oxymoronic.

THE DEPARTMENT OF ENERGY: The department has sold its database to DIALOG, so that even the agency must pay for its employees to access it except for the most recent 14 months.

To compound this, their contracting office issues a blurry photocopy instructing the potential bidder on a DOE contract to "call 800-DIALOG to get a custom

search for any information they might need." They only give a mailing address in Oak Ridge, TN, as the place where one might write for the same information.

I was scandalized when I saw the instructions, and consulted my local Wizard at William and Mary. He found the phone number for OSTI (Office of Scientific and Technical Information) in Oak Ridge. When I called, the "librarian" said that they had REPEATEDLY told the contracting office that they could, in fact, perform free searches for the 14 months allowed to them. But for some mysterious reason, that office would not tell bidders about this. . .

(I cannot explain this, I can only report the facts.)

To be doubly sure my information was current, I called a well-known local contractor for the Energy Department. I found that they are paying \$6,000 a year to DIALOG for the department's database on CD-ROM at this one location!

THUS: the taxpayer, through the agency of Congress, has paid for the development of this database... and then, by means of the department's contract for outside work, the taxpayer is socked with another \$6,000 per year for the contractor's access to it.

GENERAL DISCLAIMER: I want to make clear that I have no grievance with DIALOG, now owned by Knight-Ridder. It is the Cadillac of databases, and I would not be without it. It contains hundreds of database, many—if not most of them—private. We just have to be clear sighted about what policies we want followed in regard to citizen-owned databases on commercial entities. I will have a better model for us in a moment.

THE DEFENSE DEPARTMENT—THE WORST PROBLEM

I received a request from a gentleman who had a bootleg copy of a report, published by a contractor for one of the service commands. He had taken it to Kinko's, but they would not copy it because the contractor had put COPYRIGHT on it. I sat straight up and said, "They did WHAT?" They had been paid by the taxpayers for that report, and it was supposed to be publicly filed and available; but you can understand Kinko's reaction.

After considerable searching, I found the phone number for the librarian at the command. Several calls and FAXes later, he said he was sorry, but they did not have a copy of their own paid-for report. He referred me to the company that published it, under contract. Their librarian was also sorry, but he did not have

a copy either. Nobody could understand the situation.

So, I resorted to DTIC (Defense Technical Information Center) at Fort Belvoir. After several months transitioning into their new facility with a new phone system, they often answer as follows, "We are sorry we are unable to take your call at this time." This day, after punching the numbers as instructed by the voice, I got an automated ordering service which I could not use, since I had no code numbers; busy signals; voice mail; and then I got dumped into a dial tone. Finally I left an irate message, and was called back by a helpful person. Together we spent half an hour examining her database, and could not find the item.

I might add that my patron was puzzled because the list she had seemed to be

indexed incorrectly. I do not have the document yet.

SUMMARY OF DOD NON-COMPLIANCE: They publish independently and through contractors without following the rules for depositing through GPO, NTIS, or DTIC; they don't deposit copies where they should be available; they don't cooperate in bibliographic control; and they seem happily unaware they are part of the government information universe.

A MODEL FOR THE GOOD GUYS: The National Library of Medicine (NLM) in the National Institutes for Health.

Recently, I got a call from one of my sons, a physician, and a similar request from a patron, to get into the NLM database, MEDLARS. They provide a great service: they issue their software—GRATEFUL MED—free. You can get a password and use it at very low cost because the software organizes your search, logs on, completes the search in a few seconds, and logs off. A typical search might cost 23 cents.

WHY are they so different in their outlook? Perhaps the combined ethic of the librarians and health care providers says, "This information is important to the

public welfare. It should be out immediately, to the widest possible audience, at the lowest possible cost."

VERNON'S POSTULATE #3: The policy principles of the revised Title 44 should reflect this ethical statement; and the widest flexibility should be granted as to the forms of publishing and of disseminating, depending on the needs of particular users.

EXAMPLES OF RELATIVE COSTS OF GOVERNMENT DATABASES ACCESSED THROUGH DIALOG

One of your staff members suggested I do a generic search in each of several government databases available through DIALOG. I did (AIDS and WOMEN) in each of the following and typed out the first 10 hits.

NTIS 104 HITS \$22.72 (typing of 10 hits)
GPO 22 HITS 9.30
ERIC 397 HITS 9.30
MEDLARS 1,914 HITS 5.87

I did a similar simple search on the Energy database (NUCLEAR WASTE), typing out the first 10 hits, and it cost \$22.38. The disparity in these costs troubles me. There seems to be no policy to govern these commercial arrangements. Obviously the database which is also accessible by the public is much the cheapest, which would appear to be the market place at work.

VERNON'S RECOMMENDATIONS

- 1. Congress should exercise continuing oversight of the federal function we will now call Government Publishing.
- 2. All agencies need to be included, and the compliance requirements should have teeth.
- 3. Bibliographic control is a basic need to stem the tide toward incoherence in the system, and it should be a GPO responsibility.
- 4. The possibility of significant costs and the waste of resources is not sufficiently analyzed in the present study. We are a clever people, and the needed transitions will take place handily, and more easily if they are not forced.
- 5. Congress should affirm the obligation of the federal government to disseminate government information. The basis of public policy should be the ethical principle that public information belongs to the public, and should be delivered to them by methods affordable to all. Private vendors who wish to provide enhanced products may do so, and patrons who can afford those products are free to utilize them.
- 6. Agencies should be cautioned not to balance their budgets by devouring the public's information resources, since they are essential to economic growth and the functions of a democracy. INFORMATION IS WHAT PERMITS A PERSON—OR A BUSINESS—TO BE PRODUCTIVE... if wealth is the main consideration in having access to information, especially public information—we are in a lot of trouble.
- 7. Cost assessments for the on-line era must incorporate the fact that the need for human intelligence to mediate between the information seeker and the resources will be even greater in the electronic environment. More people will need more help with more complex processes. Computers enhance human powers, but they haven't replaced us . . . yet.

Thank you.

The CHAIRMAN. Very good testimony. Thank you very much, Dr. Vernon.

Briefly, Mr. O'Mahony, could you tell us a little bit about your concurrence or nonconcurrence with Mr. Kelley?

Mr. O'MAHONY. Overall, I certainly support and agree with everything Mr. Kelley mentioned this morning. I would, though, like to elaborate on just a few points that he made.

One of the points in terms of moving into a possible tiered system as we move down the road toward a more electronic

Government information system—I think there will be a natural evolution in many regards, and as we expand and enhance public access using these new technologies, I think we have to be careful that there continues to be equitable access throughout the system. We need to look at how having just one or two libraries being able to meet those obligations right up front and the others not able to do so impacts equitable access.

There is also a sort of conventional belief out there that the more well-endowed libraries—the larger research-academic libraries, for example—have the funds to do all of this. Well, I am from one of those libraries, and I am here to tell you that we

are struggling mightily as well.

The examples, for instance, that I mention in my prepared statement on the problems in terms of the fierce competition for limited computer work stations, the many problems with the various computer formats that are out there, the reams of paper that are being printed on laser or other printers out there, and the totally unreasonable amount of time that the public and library staff are spending trying to make sense of all of this—the examples that I give in my prepared statement are not from the small public libraries out on the prairies. They are from Harvard, they are from Brown, and they are from Berkeley. Even the cream of the crop among us are having huge difficulties accessing this information.

In relation to that, I would point out that at Brown, for example, as a selected depository library, we do not get everything. We select only those materials that are appropriate for our collection, and we get less than 50 percent of what is offered through the program. And we spend in excess of \$225,000 a year in support of this program, so we are very concerned about the shifting costs to depository libraries and the public at large.

One final point—

The CHAIRMAN. Excuse me—\$225,000 is your annual budget to fulfill those responsibilities you believe through your depository affiliation?

Mr. O'MAHONY. Exactly.

The CHAIRMAN. Is that a figure that is comparable with other institutions? Do you have any basis on which to compare your expenditures with others?

Mr. O'MAHONY. Well, Senator Ford earlier mentioned that the

University of Kentucky expends-

Senator FORD. That is a regional library.

Mr. O'MAHONY. —yes, a regional library—\$1 million.

Senator FORD. We spend about \$1 million a year.

Mr. O'MAHONY. And as I mentioned, we are a selective library, so the regionals certainly would spend much more than that. There are smaller selectives that would probably spend less than that. But all of us combined are spending huge amounts of money.

One final point that I would make-

The CHAIRMAN. And given the fact that you are investing and maintaining an infrastructure, you should be receiving the information—isn't that correct—

Senator FORD. But who is selecting whom?

Mr. O'MAHONY. Absolutely, Senator.

The CHAIRMAN [continuing]. In the simplest form? If you are going to put in all this investment—and it is largely State funds, I presume, or private—then you ought to be getting the material.

Mr. O'MAHONY. And the point about Government information is that it is only really valuable when the public can use it. If we are expending all this money to create it, to collate it, to get the data in existence, the purpose of that is so that somebody can use it.

The CHAIRMAN. Sure.

Mr. O'MAHONY. And that is our job, to help connect those people who need to use it with the information that is out there.

In relation to that, one of the biggest problems in terms of moving toward electronic format is the format of that information. The public now can come in and pull a book off the shelf and read the thing. Some of the files in electronic format are in such a way that they are designed to be printed; they are in a PDF format, and that format is really set up for printing purposes. So that when you look at that file on a computer screen, it is very difficult to read because the thing is designed to be printed on a laser printer so you can read it on a printed page.

Well, the parallel to photocopying materials becomes very dangerous here, because now, if you are allowing libraries to charge the public—and oftentimes it is necessary that they charge for photocopies of printed materials; that is fine—but if you are sitting down at a computer screen, and you cannot read the thing on the screen, and you have to print it just to read it, and you are going to charge people to make that printed copy, you cannot even read the things without paying for it. So there are a lot of difficulties in additional charges to the public for information that is in the public domain.

The CHAIRMAN. I am going to have to ask you to curtail, because on my time, I want to get responses from all of you.

Ms. Turock?

Ms. TUROCK. Actually, I think Mr. Kelley's report was quite brilliant. I think he put it together extremely well, and I was pleased to sit and listen to it.

I would like to just elaborate on three things, the first of which is that when we move into a technological medium, electronic information and the technology is changing very rapidly. We cannot expect that putting a simple computer in a depository library is going to supply the answer to the issues. We really need high-end, broad-band with technology, multimedia technology. I think Mr. Kelley brought a book and

said that it was printed in three colors, and it had graphs and pictorial representation, and because of that, a lot of the depository libraries in the United States would not be able to use it.

It is not important to give them a 286 IBM that was out-of-date 10 years ago, that a company wants to give away because it is a tax deduction. It is important to give them state-of-the-art technology, ISDN lines in technology, that will make accessible to the public information in the way it was meant to be received.

Second, I would suggest—and I am pleased that we were here this morning in helping to discuss these issues because librarians want to be involved in the decisionmaking; we want to be at the table when the decisions are made. I think that we have been involved with technology, with operations research, with the development of databases and bibliographic search systems over a long period of time; it is something that we really understand. I am sure that any librarian you ask who is up-to-date on the technology would answer, as Christie did, that if you want to come to her library or his library, they would be happy to teach you how to use the technology because that is part of the role, and I think a very important part of the librarian's role, and one that will make information accessible to everyone.

The past year, as president of the American Library Association, my theme has been "equity on the information superhighway." So my third and final concern is always that there will not be a further exacerbation of the chasm which already exists between the information-rich and the information-poor. And it concerns me greatly that what I have heard this morning is exactly what is occurring, and it cannot in

a democracy.

The CHAIRMAN. Thank you. Ms. Vernon?

Ms. VERNON. I want to say that I really did enjoy Mr. Kelley's

testimony, and you should do everything he says.

And with Betty, I want to emphasize again that—she was just talking about the kinds of technologies that are really required—I do not think the people who have made the proposals to do this conversion have a clue as to the extent in exponential costs, and the implications of the costs for the technologies that this will require have not even begun to be explored. And that is a great concern to me as well.

The CHAIRMAN. Thank you.

Would the witnesses be willing to accept from the members some questions in writing, given the time?

Ms. VERNON. Certainly.

Ms. TUROCK. Yes.

Mr. O'MAHONY. Yes.

The CHAIRMAN. I will do that and ask at this point that my distinguished colleague take the chair and conclude the hearing.

Thank you very much. Good luck to you.

Senator FORD. [Presiding.] He has a way of doing that, but he trusts me, you see, and I am not going to do anything that would jeopardize that trust.

Dr. Turock, you made two statements that hit me pretty hard—"public right" and "congressional abdication." One, I agree with the public right, and two, I do not intend to see

congressional abdication.

I talked to a printer who was in his eighties, who came to Washington and went from agency to agency, trying to pick up some work to do, and each agency had a "special printer," back in the early days. Then we moved everything to where it would be bid through the Government Printing Office and those sorts of things that we do now, and a certain portion of that would be set aside so you would bid on them. He said it has just been a joy to bid; he did not win a lot of the bids, but he was able to get some, and everybody had an equal chance.

Well, that is part of the bidding system. Now it is beginning to ease back to where Dr. Vernon talks about the Department of

Energy and the Department of Defense and so forth.

Well, I understand it. I have been screaming—I did not pull my hair, but I am getting close. I get from your testimony that it is not realistic to do 50 percent electronic-based by FY '98, that that is too soon, and we are looking at a minimum of 5 to 7 years. Is that kind of the consensus of the three of you?

Ms. VERNON. Yes.

Ms. TUROCK. It is certainly something I agree to. I think that when we talk about computerizing any kind of new technology, we are talking about a time line that is indefinite. There are heavy up-front start-up costs, but the costs go on. The technology is not something that lasts forever.

Senator FORD. It has to be upgraded or changed.

Ms. TUROCK. Exactly, and it gets old and becomes obsolete. As a librarian in New Jersey with the first computerized circulation system, my board of trustees thought it would last until the grave of the library. Well, of course, in 5 years, it was out-of-date, and it needed to be updated so that the people could have the service that they needed. So this is not something which is going to be over in 5 to 7 years; it is a continuing commitment to keep the kind of up-to-date equipment that will make Government information available to the people in the libraries, in the depository system.

Ms. VERNON. From what I understand about the proposal, I am very much afraid that there are people who think that it will save a lot of money, and I think that this is pretty funny. I do not know of any computer system that has saved anybody any money. But the implication that the GPO would be reduced in its budget and that they would thereby be forced to save money by converting to electronic media almost exclusively, I think is a fallacy from the beginning. All of their other enterprises and publications need to be supported, and it is going to cost money

to do the conversion, and there are going to be unexpected costs. So that at some point, somebody needs to address the fact that this is just simply a fallacious proposition that the sudden conversion and cutting of the GPO budget is going to solve any problems. It is very dangerous, as a matter of fact. We will find ourselves with information resources that are simply lost.

Senator FORD. That gets around to the fugitive documents that we worry about. I am concerned that a decentralized system will give us a lot more fugitive documents. Even though the MEDLARS system that you talked about is separate, their

attitude is much better than some others.

Ms. VERNON. And they are available fully through both NTIS and GPO.

Senator FORD. Yes, I understand that, but they are somewhat

singled out, separate, that sort of thing.

I just want to go back and say how much I understand and appreciate how we lean on all the depository libraries and regional libraries. We depend on them and not many of us around here understand it. That is the reason why we have hearings—we have real people in real jobs come up here and tell us about real life. We need to understand that, and more of us need to go to our depository libraries or our regional libraries and go in and understand what the problems are and see it. As I said, I am not a computer expert, and I am getting too old to even think I will be a computer expert, and I understand that. But I do believe what has to come, and I believe we have to have a backup—you turn the switch off and lose everything. I have been through all that, trying to find a letter from a constituent. That is bad. That is a lot worse than you losing something at the library, because you are supposed to respond to him. So I understand it. I have been fussed and fumed at and all that.

But I think the American public does not understand what bang for their buck they are receiving here, and we have to do some more work on it. I am concerned that we may be getting close to what I think Dr. Turock called an unfunded mandate.

Ms. VERNON. I called it that. That is what it is.

Senator FORD. Okay. We went through a tremendous exercise here about unfunded mandates, so I think we will understand the unfunded mandate statement, and hopefully, we can get to that. I am concerned that we are getting very, very close to what we would look at as an unfunded mandate.

You know, \$50 million is not much money, and that is the limit. So everything over that becomes an unfunded mandate. I think we do have a financial limit on it.

But I like your partnership with Government. I think we ought to expand that partnership. We have learned in the last 3½ years how to create new jobs—9.7 million or something like that. Now we have to find out how to create better jobs, better-paying jobs, and by informing the public, I think we can

do that. And you become a great link between what we are trying to do here and what happens with the public.

I am so pleased with what I have heard here today. It kind of vindicates some of the things I have been saying and trying to do in the 1993 Act that I tried too hard to make work. Hopefully, it is beginning—it could be something very big, and we want to be sure that as it grows, it is healthy.

I apologize for getting carried away here, but it is something that I am very, very concerned about and want to go so well.

I turn it over to my friend, who has been doing it for a long time; he has been a great teacher, and I have learned a lot from

Senator Pell?

Senator PELL. I have just a couple of questions for Mr. O'Mahony particularly. I am very glad to see that you are listed as one of the advisors of the study headed by the Public Printer on measures necessary for a successful transition to a more electronic Federal Depository Library System. My question is do you feel that the community of users, particularly the Depository Library Council which you headed, were given full consideration as the study proceeded?

Mr. O'MAHONY. Absolutely, Senator. From the very outset of that study process, the study team that was put together included representatives from all facets of the library community. We as the Depository Library Council participated as an advisory group. There were members on the working group who were from the library community, and at each successive step in that process, it was very apparent that our input was being heard. And as you can see from the final report issued here just today, all of those comments are well-integrated into the final report or presented there in their entirety. So that yes, it has been a very thorough and very cooperative process throughout. Senator PELL. You do not think there was any undue pressure

to affect the transition toward an electronic formula?

Mr. O'MAHONY. In terms of the conclusions drawn in the report, I think that the 5- to 7-year transition, for example, is a happy medium that was reached as opposed to the initial proposal of a 2-year transition. I think that that is a good example of how this study team listened to the input from the depository library community. They may have had initial pressures to force a 2-year transition, but our ultimate recommendation is for a 5- to 7-year or an evolving transition to a more electronic program.

Senator PELL. I was appalled that publications of such importance to my own constituency as the Coastal Tide Tables and the National Trade Databank are in effect disappearing from the depository libraries because they are being rendered in electronic form and then being sold through commercial outlets. What is your personal recommendation to resolve that problem?

Mr. O'MAHONY. I too am appalled, Senator, and it is just one more, unfortunately, of a long list of examples, as Mr. Kelley articulated this morning, of information falling through the cracks, of agencies going outside the program and the public losing out in the long run. The information is just not as readily available to the public.

Senator PELL. Returning for a moment to the question of pressure on libraries to become more electronic, is this not really quite a load on the small libraries? In my State, we have little libraries with \$50,000 annual budgets. Don't you feel that libraries can subsist without going electronic—the little ones?

Mr. O'MAHONY. Absolutely. The smaller libraries and the public libraries are the ones feeling the brunt of this. All libraries are struggling with changing technologies, but those libraries are especially hurt by this, and their constituencies suffer as a result.

In Rhode Island, there are 12 of us in the Depository Library Program, and we certainly huddle together and share resources as best we can to cover the State and the State's needs, but those libraries—and we have also tried to bring in new partners in this arrangements. The Ocean State FreeNet, for example, is a great way that we have extended access to Government information to the public at large. But we all—large, well-funded libraries, relatively speaking, and smaller public libraries—are hard-pressed to match the changing technologies and the costs associated with them.

Senator PELL. Then, in the very small private libraries, or the athenaeums, like the Providence Library and Athenaeum, can

they afford the switchover?

Mr. O'MAHONY. I do not know. I think they are struggling. They can rely on us currently through the Depository Library Program to have access to that information, but under the arrangements described today where information is not available through the program, they are at a loss.

Senator PELL. Thank you.

Dr. Vernon, I was struck with your thought of changing the name of the GPO to, as I recall, the "Office of Government Information Production."

Ms. VERNON. No—the "Government Publishing Office." You would not have to change any of the stationery. Publishing is

really what they are doing, not printing.

Senator FORD. What I think Senator Pell and I are trying to do is get to the information dissemination office, and how do we coordinate that. So would you accept the "Government Publishing and Information Office"?

Ms. VERNON. I will accept anything if you will just get the

information to the public. That was my little joke.

Senator FORD. Well, I think the idea of information dissemination—if you get that name into it, that may bring other things in, while you are getting all of these fugitive documents.

Mr. O'MAHONY. I might suggest the "Public Information and Dissemination Office."

Ms. VERNON. How about that? Yes.

Senator FORD. "Government Public Information and Dissemination Office."

[Laughter.]

Senator FORD. Well, we will work it out—we will screw it up if you just give us a chance.

[Laughter.]

Senator FORD. I want to thank the witnesses, including Mr. Kelley, for agreeing to appear at this rescheduled hearing, and I look forward to tomorrow's hearing on what the future trends in technology and user capabilities might mean to a more electronic Federal Depository Library System. That hearing tomorrow will begin at 9:30 in this room.

I am very pleased that the chairman has indicated that later hearings will definitely include oversight and review of compliance with Title 44 as well as printing and procurement issues.

This hearing is recessed until tomorrow morning at 9:30.

[Whereupon, at 11:02 a.m., the committee was adjourned, to reconvene on Wednesday, June 19, 1996, at 9:30 a.m.]

PUBLIC ACCESS TO GOVERNMENT INFORMATION IN THE 21ST CENTURY

WEDNESDAY, JUNE 19, 1996

U.S. SENATE,
COMMITTEE ON RULES AND ADMINISTRATION,
Washington, DC.

The committee met, pursuant to notice, at 9:41 a.m., in Room SR-301, Russell Senate Office Building, Hon. John Warner, chairman, presiding.

Present: Senators Warner and Ford.

Staff Present: Grayson Winterling, Staff Director; Edward H. Edens IV, Special Assistant to the Chairman; Bruce E. Kasold, Chief Counsel; Jennifer Joy Wilson, Special Adviser to the Chairman; Virginia C. Sandahl, Chief Clerk; Mary Louise Faunce, Administrative Assistant to the Staff Director; Kennie L. Gill, Democratic Staff Director and Chief Counsel; and John L. Sousa, Democratic General Counsel.

The CHAIRMAN. The hearing will now come to order. Senator Ford and I apologize for the tardiness. One of the hallmarks of my distinguished ranking member, the Senator from Kentucky, is punctuality, and very seldom—but as you see, the vote on the floor necessitated a brief delay.

Now, just a short opening statement. We continue with our second in a series of hearings on public access to Government information in the 21st century. These hearings on Title 44 have two basic goals. One is to determine how Government information producers and distributors can effectively encourage and utilize technological advances without sacrificing the public's ability to access that information, the reason being I have seen the figure that only 10 percent of the public really understands the use of computers and how to work with them. And no way in our advancement do we want to shut out those who as yet have not acquired or simply do not have the resources to obtain such skills. Two, to bring Title 44 into the next millennium at the lowest possible cost to the taxpayers, it requires this committee's review of printing, procurement, and compliance with Title 44.

Yesterday's hearing was a very successful one devoted primarily to the GPO Federal Depository Library Program and

how best to produce, locate, disseminate, and retrieve Government information for public access, whether on paper or electronic format.

The purpose of today's hearing is to eliminate continuing changes in technology which present extra challenges to those trying to access information, to understand the current and projected state of user sophistication in accessing electronic products, and to shed light on how American public libraries and the National Archives are preparing for the electronic waves ahead.

This committee's future hearings will investigate compliance and statutory conflict issues with Title 44 such as the production of "fugitive" documents and the charging of fees for public information. Future hearings will also review the cost and competitiveness issues relating to printing and procurement practices.

In opening this series of hearings yesterday, Senator Ford and I both referenced the principles of our Founding Fathers. To set the tone for today's hearing, I find another visionary quote by

Thomas Jefferson.

[Laughter.]

The ČHAIRMAN. We are having a bit of a contest here between the chairman and the distinguished ranking member.

Senator FORD. Of course, the Democratic Party uses Jefferson. He doesn't. But he quotes the heck out of him.

[Laughter.]

The CHAIRMAN. Jefferson is Virginia.

Senator FORD. Yes, I understand. Well, you have to remember now, as I tried to remind you yesterday, we were a part of Virginia. We did leave, however.

The CHAIRMAN. But we fortunately downsized.

[Laughter.]

Senator FORD. That is the way with you Republicans, just send your people out downsizing. You want to try some more?

The CHAIRMAN. I quote Mr. Jefferson: "I know also that laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, institutions must advance also and keep pace with the times."

What a remarkable piece of prose written so many years ago

but so applicable to the situation today.

The distinguished ranking member.

Senator FORD. I am not sure whether it was Jefferson or not who said that if you expect people to be ignorant and free, you expect something that isn't and will never be. I don't know whether it was Jefferson or not, but—

The CHAIRMAN. We will save it for the next hearing, then.

Senator FORD. Well, I will look it up.

We have a good time, and the chairman and I enjoy our friendship and our work together. I want to express my

congratulations to him for the hearing yesterday. I thought it was very fruitful. We understand about the ability for our constituents and our people to access information, but to be careful that we are not putting ourselves in a position of having the taxpayers fund it and then turn around and have to pay for it at least once or twice. So I thought if nothing else came out of yesterday's hearings, to me personally that was very important.

The witnesses raised topics yesterday that could well serve as the basis of our future hearings and discussion as it relates to public access. I regret that I have a scheduled conflict. I have

already talked to my colleague's wife here-

The CHAIRMAN. Wait a minute. You—

Senator FORD. His wife, my colleague—how is that? How would that go?

The CHAIRMAN. The Senator from Illinois.

Senator FORD. Yes, well, that is my colleague

The CHAIRMAN. Well, so am I, but I don't have a wife.

Senator FORD. Okay.

[Laughter.]

The CHAIRMAN. You have to be more explicit in your antecedents.

Senator FORD. Well, I talked to Senator Simon about his wife, Jeanne. How is that? Is that all right?

The CHAIRMAN. That is fine.

Senator FORD. She is going to testify today, and I hate like heck I am not going to be here, but I am going to try to get back, Jeanne. I apologize to her. I understand she wanted to eyeball me—any time you want to, you can—about this subject. And so I regret that I have another appointment. The Senator from Virginia had to leave early yesterday, and I assure you of one thing. We trust each other. He left yesterday with me in charge. I am leaving today with him in charge. And so we do have not only a friendship but a trust, and I think that is the way this place ought to operate.

The CHAIRMAN. I share that view, and let me first acknowledge that you have worked in this area for many years as a member of this committee, the chairman, and the like. So we are essentially carrying on, building on the foundation that you developed. Let us hope that we can achieve some finality to this

very, very important subject.

This is a one-world market that the United States of America is now competing in. Every morning when we arise, half the world has completed their business the day before. And the citizens of this country have got to immediately access to the best extent possible what has transpired while they were getting dome deserved rest. So with that, we will start the hearing.

First, we have Mr. Wulf, and I would like to advise our viewers and participants here a little bit about his background. He is the AT&T Professor of Engineering and Applied Science at the University of Virginia, where I was privileged to attend and

Mr. Jefferson's university—I am sorry he left. One of his current activities at the university is research and computer architecture and computer security. Activities outside the university include chairing the Computer Science and Telecommunications Board of the National Research Council.

In the period 1988-90, Dr. Wulf was on leave from the university to be an Assistant Director of the National Science Foundation where he headed the Director for Computer and Information Science and Engineering, which is responsible for computer science and engineering research as well as operating the National Super Computer Center. While at the NSF, Dr. Wulf was involved in the development of the high-performing computing and communication initiative and in the formative discussions of the national information infrastructure. You are on the cutting edge for sure.

Then we have Dennis F. Galletta. Mr. Galletta is an Associate Professor of Business Administration at Joseph M. Katz Graduate School of Business, University of Pittsburgh. His teaching interests are in human computer interaction, foundation of MIS research, commerce on the information highway, and introductory information systems. To date, our witness has published articles in 11 journals and also a book on the MIS area. He is also on the editorial boards of three journals, council member for the Association of Information Systems representing the American Region, and the treasurer for the International Conference on Information Systems. Eminent qualifications.

Now, Robert L. Smith is the Executive Director of the Interactive Services Association, ISA. Mr. Smith is a key spokesman for a diverse industry including all interactive platforms and applications. He has been in charge of the organization since 1982. Founded as a nonprofit organization in 1981, ISA serves businesses which deliver telecommunications-based interactive services to the consumer. The primary focus is on the interactive services in the home, office, and public locations. In the fall of 1994, Mr. Smith spearheaded a cooperative effort with the National Center for Missing and Exploited Children and all the major online services to produce the brochure "Child Safety on the Information Highway." In 1995, he chaired the ISA effort to develop a national consumer education program for the online and Internet industry. A remarkable set of qualifications possessed by Mr. Smith and all of our witnesses here in the first panel.

We are fortunate to have such a repository of knowledge and experience to be brought to bear on this issue, and we will lead off with you, Dr. Wulf.

TESTIMONY OF WILLIAM A. WULF, PROFESSOR OF COM-PUTER SCIENCE, SCHOOL OF ENGINEERING AND AP-PLIED SCIENCE, UNIVERSITY OF VIRGINIA, CHARLOTTESVILLE, VA

Mr. WULF. Thank you, Mr. Chairman. I appreciate the

opportunity to testify today.

As you said, I am a professor of computer science at Mr. Jefferson's university. Perhaps more germane to today's discussion, as you said, I chair the Computer Science and Telecommunications Board of the National Research Council.

The CHAIRMAN. I would ask you to bring that microphone up. Part of our communications is still turn of the century. That is

the audio system in here.

Mr. WULF. As I am sure you know, the National Research Council is the operational arm of the National Academies of Science and Engineering, which, although a private independent corporation, was chartered by Congress to provide independent advice of an expert nature.

The Computer Science and Telecommunications Board has produced a fairly steady stream of reports dealing with the general areas under discussion today. Two of our latest are called "Realizing the Information Future—The Internet and Beyond" and "The Unpredictable Certainty—Information Infrastructure Through 2000." I think your staff has those reports. In the event that they do not, I think they are very germane and I brought copies with me.

I should warn you, however, that I am not an expert on the GPO or on Government dissemination of information in general,

so I am going to restrict myself to the technical issues.

I would like to take the theme of my talk from the title of the second of the two reports that I referred to, "The Unpredictable Certainty." In short, what is absolutely certain is that we will have bigger, faster, cheaper, more powerful computers, and bigger, faster, more powerful telecommunications. What is absolutely unpredictable is precisely which of the various competing technologies will dominate or precisely when we will have those technologies available.

It seems to me that to understand either the certainty of that or the unpredictability of it, it is important to internalize the tremendous rate of progress that we have had in this business for the last 50 years, and I have groped for a long time at how to try and capture and communicate that tremendous rate of growth to

lay people.

For the last four decades, we have basically had an increase in storage capacity and computing power of a factor of 2 about every 18 months. We have had a decrease in cost and power consumption at about the same rate. If I translated that into financial terms, it is roughly equivalent to an 80 percent

compound interest rate for 50 consecutive years. If you had invested a penny when the ENIAC was first turned on in 1946, it would be approaching \$1 billion in value at the moment at that rate.

I have in front of me a Powerbook Computer. My colleague has an IBM Think Pad. There is a bit of apples and oranges in this comparison, but roughly speaking, the amount of computing power that I have in this Powerbook that I carry around is equivalent to that of all the computers in the world in 1970.

Saying that we get a factor of 2 increase in computing power or storage capacity every 18 months is equivalent to saying that the advance in that 18 months is equivalent to the advance forever in the past. It is equivalent to the sum of the advances that have happened for all of recorded history up to that previous point.

Those are kind of mind-boggling numbers, I think, and people constantly underestimate the importance and the impact that that kind of rate of increase has. That is why it is so unpredictable. In fact, it is very hard to internalize and project

in the face of such tremendous progress.

There is a wonderful story that in 1949 Popular Mechanics published an article about ENIAC. ENIAC was the first electronic digital computer to run in this country. It was turned on in 1946. This Popular Mechanics article observed that ENIAC contained 18,000 vacuum tubes and weighed about 30 tons. They projected, however, that computers in the future would have only about 1,000 vacuum tubes and weigh, oh, just a ton-and-a-half or so.

Well, today, computers are about 100,000 times more powerful, contain the equivalent of about 10 million vacuum tubes, and weigh much less than an ounce. I have a computer here equivalent in power to the ENIAC. Can you hear that?

The CHAIRMAN. I can hear that. Perhaps you should show it to those behind you who are equally a part of this audience.

Mr. WULF. This is a Valentine's Day card which has a computer in it which plays music.

The CHAIRMAN. And powered by what sort of source?

Mr. WULF. A small battery.

The CHAIRMAN. A small battery?

Mr. WULF. Yes.

The CHAIRMAN. Comparable to the batteries that we see where?

Mr. WULF. In your typical camera, a little tiny—or a hearing

aid battery, that sort of thing.

There is really an important and powerful story in this. It is not just that we get this much power in this small a package. It is that we use it for different purposes people who designed the ENIAC would never have imagined. This card, by the way, costs about \$3, and it is basically intended to be a throw-away.

When you are contemplating the future of GPO and the use of technology in disseminating Government information, it is critical that you think forward in terms of the million dollar computer today being a \$3 throw-away.

The CHAIRMAN. On that point, if I could interrupt, your testimony is excellent, this presentation and the facts. One of the most difficult decisions that we in the Congress will have to make is at what point do we enter in and suddenly change the hardware, so to speak, that exists throughout this infrastructure. And we will do that at some point in time, I suppose, but at the point when we have completed that, it is, to an extent, outdated. But nevertheless we have got to do it at some point. So if you can help this committee with that tough decision, each of you, as you go along in your testimony.

Mr. WULF. I will try and make some recommendations at the end that speak to that point, but basically you are not going to like the answer because I think you have to spend money now in

order to be saving money later.

Okay. Let me talk about the certainty for just a minute. I think there are two kinds of things we can say with some certainty. One has to do with specific technology forecasts 5 to 10 years out. These are basically things that are in the lab today that I can confidently predict will be there in product. And, second, there is the general shape of technology that is going to exist at some point in the future. I can't tell you precisely what it is, but I understand that because of this factor of 2 every 18 months, certain kinds of things are going to happen.

If I look at the specific technology, for example, I can absolutely guarantee you that in 10 years we will be talking about 64-gigabit primary memories, 100-million transistor microprocessors running at gigahertz clock rates, and you don't care about one darn one of those numbers. What you care about is what the social impact is and what the utility to the citizenry is, and that is what I can't tell you. That is the unpredictable part.

I do want to make a point, though, that the technology is used not just for increasing the power of computers, but also for incréasing their usability in a number of dimensions. I was groping for some way to illustrate that to you, and so what I have brought along is a picture, if somebody could grab this and take it up to the Senator.

The CHAIRMAN. Yes, of course.

Mr. WULF. Let me show it to the audience, too. This is a photograph taken by a good friend of mine.

The CHAIRMAN. Show it to the audience as well.

Mr. WULF. It is a photograph taken by a good friend of mine who is quite a remarkable nature photographer. The point is really not the photograph. What is important is that that is not a photograph. That is computer-printer output. It happens to be a slightly expensive printer at the moment, but it is about the same price as laser printers when they first came out. And so that isThe CHAIRMAN. What would the cost of that printer be today? Mr. WULF. That is about a \$10,000 printer.

The CHAIRMAN. \$10,000?

Mr. WULF. Right, which means that it will be \$2,000 in 5 years.

The CHAIRMAN. Well, how was the original-

Mr. WULF. The original was taken on film.

The CHAIRMAN. So the original is on film, and then it simply

goes into a processor which produces—

Mr. WULF. We will undoubtedly go to high-quality all-digital cameras in that same kind of time frame, too. At the moment he still takes pictures with two-and-a-quarter by two-and-a-quarter

Okay. So computers are moving fast. Communication technology is moving fast. Absolutely certain as far as I am concerned that at some point in the future there will be a ubiquitous, very high bandwidth, very capable digital infrastructure capable of producing pictures of that quality on demand, virtually anywhere, inexpensively. So not just text.

The CHAIRMAN. Let me try and probe this further, because I have very little expertise, but a regular camera took the initial

picture.

Mr. WULF. Correct.

The CHAIRMAN. So essentially the computer in this instance displaced what we call the developing process.

Mr. WULF. That is exactly correct.

The CHAIRMAN. And, therefore, the picture was taken by the same optics that you normally take pictures, but it is the developing process that—

Mr. WULF. He develops the negative, but then he threw away, I believe, some \$30,000 worth of wet laboratory for doing print production and instead substituted a very high end Macintosh

with a piece of software called Photoshop and a printer.

The CHAIRMAN. And not being an expert, is this quality then considered—it appeals to me—better than what the developing process would have produced?

Mr. WULF. He has more control over it, which is the reason

that he shifted; that is, he can-

The CHAIRMAN. Adjust the tonal qualities. That is very important from an artistic standpoint, to give depth perception.

Mr. WULF. Okay. So let me talk about the unpredictable part. The point is that I said there are some technologies which will absolutely predictably come in the future. The trouble is, number one, we can use those technologies to do any one of a number of different things, and so what will actually happen will depend on the business case and the marketing situation. I have tried in my written testimony to give you some examples of that. I am running a little bit long, and so perhaps I shouldn't go into those in detail. The key point really is just that we know what the technology will be. How precisely it will be used or at what rate it will be introduced is very difficult to predict.

In particular, I refer to a chicken-and-egg problem that we have in the telecommunications industry. I think the telecommunications providers, by and large, have been reluctant to deploy very high bandwidth telecommunications capability because they are worried that the applications are not there to use it and so they won't be able to sell it. It is a very large investment, hundreds of billions of dollars. At the same time the applications which would use it if it were there are not being developed because the bandwidth is not there.

So let me move on to my recommendations. I think the obvious question that you should be asking is what should you do in the face of this unpredictable certainty, and so repeating my caveat that I am not an expert on the dissemination of Government information, if I can borrow a phrase, I think what you must do is move forward with all deliberate speed. You can't jump off the cliff. It is not clear exactly what will be available or to whom it will be available. And you are absolutely right: we want to make sure that all the citizenry has access to Government information.

Several points to make on this. The first one is, if I can make a diversion a little bit, I would be delighted to offer the services of the Computer Science and Telecommunications Board. I have some opinions, some personal opinions, but the way that the Board works is we assemble the world's best experts in any particular area to study a topic like this in depth. And I would feel much more confident of what I am saying if it had that kind of expert analysis.

There is no question in my mind that within two decades all Government information will be disseminated electronically. Moreover, a substantial fraction of that will be electronic publications which could not be reproduced on paper if you wanted to. There will be things that talk. There will be things that move. There will be things that update themselves and so on. So you must move forward, and as you move forward, I think you should be thinking three things.

First, GPO should be experimenting with nonprintable forms of publication. Don't limit yourself to just thinking of the electronic media as a dissemination technique for information. The media does shape the message, and so experiment with nonprintable forms.

Second, computers are a time machine of sorts. That is, if I buy an expensive computer today, I can be absolutely certain that I will be able to buy that amount of computing power, that capability, inexpensively in the future. And so as you think in terms of dissemination of information, what you should be doing today should probably be on relatively expensive equipment. I know that this is not a message that you probably want to hear, but unless you do that, you will produce obsolete techniques when this inexorable march of technology catches up with you.

And, third, the Government can help break the logjam by

creating a demand for telecommunications capability.

A final remark. You gave me the opportunity to testify today. I hope I have been helpful. If I may put in a plug of sorts, the reason that we have had these incredible advances in the technology has been a soft infrastructure of research and development in the universities and in industry. I am deeply concerned that the stew of people and ideas that has flowed back and forth between academia, industry, and Government laboratories is being damaged, the tremendous downsizing in the private sector and on the heels of that, a retraction in Federal support of basic research. And so I would like to encourage all of the members the committee and the Senate to continue to support basic research and to help create a climate in the private sector which encourages development. Because of this incredibly dizzying rate of technology development, we must keep in mind that we can fall behind at precisely that rate. The only way to stay ahead is to run harder.

Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Wulf follows:]

PREPARED STATEMENT OF DR. WILLIAM WULF, PROFESSOR OF COMPUTER SCIENCE, UNIVERSITY OF VIRGINIA, CHARLOTTESVILLE, VA

My name is William A. Wulf. I appreciate the opportunity to testify today. For the record, I am currently a Professor of Computer Science at the University of Virginia. From 1988 to 1990 I was an Assistant Director of the National Science Foundation, where I was responsible for the Directorate for Computer and Information Science and Engineering (CISE). My responsibilities there included NSFNET, the immediate precursor to the current Internet. Prior to that I founded and ran a software company, and prior to that I was a Professor at Carnegie-Mellon University.

I am also currently Chairman of the Computer Science and Telecommunications Board (CSTB) of the National Research Council (NRC). As I am sure you know, the NRC is the operational arm of the National Academies of Science and Engineering, and, although a private corporation, is chartered by Congress to provide unbiased, expert advice on issues involving science and technology. CSTBO's mission includes the study of both technical and policy issues in computer

science, computer technology and telecommunications.

CSTB has produced a steady stream of reports on computer networks and telecommunications. The first of these, "Toward a National Research Network", was published in 1988 and is widely credited with being one of the seminal events in the creation of the Internet. Two of our most recent studies, aRealizing the Information Future—The Internet and Beyond" (1994) and "The Unpredictable Certainty— Information Infrastructure Through 2000" (1996), provide a contemporary analysis of technical and policy issues related to realizing the potential of the information infrastructure.

Thus, I have at least some of the technical background that I hope will be of help to the Committee. I also have experience considering these issues from an academic, government, or private sector perspective. I should warn you, however, that I am only peripherally familiar with the purpose and function of the GPO and other channels of access to government information, so I will confine my remarks to the technical issues.

The Unpredictable Certainty

I would like to take the title of our most recent CSTB report as the theme of my remarks. In short, what is absolutely certain is faster, bigger, cheaper, more

capable computing and communications technology, causing continued, rapid change in the way we use the technology. What is absolutely unpredictable is the rate at which the technology will be deployed, precisely which of several competing technologies will be "the winner", and what the social implications will be.

To understand either the certainty or the unpredictability it is first necessary to internalize the incredible rate of technology change over the last fifty years, and that it will continue well into the next century. For the last four decades the speed and storage capacity of computers have doubled every 18 to 24 months; the cost, size and power consumption have become smaller at about the same rate. The bandwidth of computer networks has increased a thousand-fold in just the last decade, and the traffic on the network continues to grow at 300-500 percent annually. For the foreseeable future, all of these trends will continue; the basic technology to support them exists now.

The compound effect of this rate of improvement is hard to appreciate—but an analogy I occasionally use is the familiar children's story about the young man who indentures himself, agreeing to work for a month with a starting salary of 1¢ so long as his salary is doubled every day. In a 31-day month he earns over \$21 million. More importantly, he earns half of it on the last day, an amount equal

to everything that he has earned up to that point.

People constantly underestimate the impact of this rate of change. For example, speaking of ENIAC, the first fully electronic digital computer, a 1949 article in Popular Mechanics said:

ENIAC contains about 18,000 vacuum tubes and weighs 30 tons, but in the future computers will contain only about 1,000 tubes and weigh only $1\frac{1}{2}$ tons.

Thirty-five years later a typical microprocessor is about 100,000 times more powerful, contains the equivalent of 10 million tubes and weighs substantially less than an ounce. Every 18 months or so, like the indentured young man, we get twice the power of the predecessor generation—an amount equal to the sum of all the past advances! The result is not just faster, smaller computers, but the use of computers in ways that the "experts" in 1949 would never have imagined.

To my knowledge, there has never been a similarly rapid, sustained change in technology, especially one with such broad social application. By comparison, even the industrial revolution seems modest in scope and leisurely in pace. We humans are not well equipped to forecast the implications of such changes, and the "experts" (including this one) have consistently missed the mark. Our common failure has been to assume that we would use the technology to do the same things as today—just faster and cheaper. In fact, most often we do something different.

The Certainty

I can say two kinds of things with some certainty: (1) specific technology forecasts for 5 to 10 years out, and (2) the general shape of the information technology at some, more indefinite time in the future. That is, we know a great deal about the technology that's "in the lab" and hence will be commercially available in 5 to 10 years, but we don't know precisely how that technology will be used in products, if at all. Conversely, we can be quite certain that eventually ubiquitous, very high bandwidth communication will be available to everyone, but because of both technical and business considerations, it is not clear how soon that will occur.

In the computer industry, for example, in 10 years it is clear that advances in semiconductor technology will produce 64 gigabit DRAM memories, 100-million transistor microprocessors running at gigahertz clock speeds, and near-terabyte hard drives. Ignoring the specific numbers that we techies enjoy, that simply means about a hundred-fold increase along every dimension of storage capacity and speed. Moreover, beyond raw power, the technology to support the ergonomics of computing is moving equally swiftly—as just one example, I expect the typical computer screen in a decade to have the same resolution and crispness as a piece of paper produced by a current laser printer. The typical printer, in turn, will produce photographic quality images.

Communications technology is, if anything, moving at a faster rate than computer technology. There are a variety of technologies, employing existing telephony "twisted pair" copper wires, coaxial cable, and wireless—each of which is capable of delivering tens of megabits per second into the home. Again, ignoring the specific numbers, that means several hundred times the capacity of today's fastest modems. That translates to several video channels or to "downloading" a 500-page book in a second or two.

Although less easily quantified, software too marches on. While computers were once almost exclusively the domain of scientists, software expanded the set of users to the point that one-third of all US homes now have a PC. The ease of use as well as the application domains will expand. "In the lab" are software systems, for example, that make the entire worldwide web of computers function as a single one, eliminating the need to know where information is located and

making vast computational resources available on demand.

Of course, at some point we'll reach a fundamental physical limit and hardware progress will slow down, but all of these things mentioned above are functioning in the laboratory now and will be in commercial service within a decade. Beyond that it is harder to predict—but more than one expert has fallen on his sword by predicting when the limit would be reached. In each case the "fundamental limit" turned out to be only a limit to the then-popular technology, and clever engineers found another technology that avoided that particular limit. So, while being cautious about the specifics, few experts believe that the current rate of progress will stop for quite some time.

So—not all that far in the future, there will be a ubiquitous, high bandwidth, digital infrastructure. If history is any guide, that infrastructure will be used in ways that we cannot predict, but those uses will not just be faster/cheaper extrapolations of what we currently do. I am convinced, for example, that we will not merely use this infrastructure to distribute books as we know them. Electronic publications will contain motion and sound, of course, but I suspect:

- the hypertextual link, that allows one to merely "click on an icon" to
 access information, will serve more as a inclusion mechanism rather
 than as a reference mechanism, and will radically change the style of
 non-fiction. "Books" will not be a linear sequence of pages, but will
 have a rich structure in which every idea is as close to its related
 ideas as to the next word.
- authors will demand the ability to update/correct a text at any time, even after "publication"—causing a massive rethinking of many derivative issues, but ultimately resulting in clearer, more correct, more accessible information.
- some publications will be "active" entities, executing software in computer parlance, that by interacting with other such entities become richer, more valuable with time. As Joel Mosis, a Computer Scientist at MIT, once said of a future time: "Can you imagine, they used to have libraries where the books didn't talk to each other!" At some point our publications will "talk" to each other, and build connections and relations that we humans are too limited to see.

Any one of these would fundamentally change our concept of publication. But, these might be rubbish, of course. The point is not that these specific changes will occur, but that we have a new medium and that medium will shape how we communicate using it. Thinking about issues such as the future of the GPO has to include more than just networks as a distribution mechanism; one has to think about what will be distributed as well—in fact, "what" is likely to be a more fundamental question than how to distribute.

The Unpredictability

The ability to predict accurately the number of transistors on a chip or the capacity of fiber communications does not imply that we can predict how they will be used. I will try to illustrate with a few examples.

(1) The Future "PC"

The norm in the computer industry has been to build to one of a few "price points". That is, the advancing technology could be used to either make computers of the same power cheaper or to make computers of the same cost more powerful. Generally the industry does the later, thus the price of the PC has stayed relatively constant, but the size of memory and speed of the processor have increased dramatically.

Occasionally, however, new price points are established. Everything was a million dollar "mainframe" until the introduction of the mini-computer in the early 70's. These two, mainframes and minis, reigned until the PC arrived in the

early 80's, and now we have three distinct price points.

Some now believe that another price point will be established—the \$500 Internet access box—but it is far from clear whether the difference between this and a \$1,000 low-end PC is large enough to create, in effect, a new industry. More personal computers were sold in the U.S. in 1995 than television sets, and it is estimated that one-third of homes now have a one, so for some portion of the population the \$1,000+ price is not a barrier. Note, by the way, that virtually every new PC comes with a modem and so is "Internet ready".

The issue is deeper than simply the price difference or which companies prosper; it involves different models of information delivery, and hence quite different business models. The PC is a capable computer with a large amount of storage that can (and does) execute increasingly sophisticated applications. Corporations such as Microsoft sell these applications directly to the end user. The "access box" is a far less capable computer that only provides Internet access—applications are stored and executed on more powerful, remote "servers." Presumably, application providers will sell them on a "per use" basis—a very different business model than that of the current software industry.

A similar distinction in business models will apply to the dissemination of government information, particularly if/when the "what gets disseminated" changes. If, for example, the access box model dominates, then the government must be prepared to provide substantial "servers", and network bandwidth to them. If the PC model dominates, then the government's primary role may simply be to package information in some technological successor to the CD.

(2) The Chicken and Egg Problem

I noted earlier that, if anything, communication technology is improving even more rapidly than computing technology. That does not mean, however, that it will follow the same pattern of deployment as computers. Indeed, it seems clear that it will not!

In the case of personal computers, two early applications—spreadsheets and word processors—made them immediately useful to both business and individuals. Separate, decoupled purchasing decisions were made based on the productivity or functionality enhancements to the purchaser. An industry supplying additional applications grew on the back of the purchasing decisions for these two initial applications, or "killer apps".

Telecommunications, on the other hand, is valuable only if there are others to communicate with and an infrastructure to support it—and that infrastructure represents a large investment. Decisions to connect to the infrastructure will still be made by individuals, but they will be influenced by how many others have made the same decision and, possibly, by who they are. There are no analogs of the "killer apps" that are useful without the infrastructure or the other users.

Thus we are caught in something of a chicken and egg problem. Telecommunication providers are not rushing to rewire the country because it is not clear whether they could sell the bandwidth if they supplied it. At the same time many of us suspect that really innovative and potentially lucrative applications are not being developed and deployed because there isn't a ubiquitous broadband infrastructure to support them.

I have no doubt that such an infrastructure will emerge. In all probability at some time it will reach a critical mass and spread explosively, much as personal computers have. There is little evidence that we are close to that point, however.

(3) The Winning Technology, or Technologies

There are at least 7 "bitways" by which telecommunications could enter the home and office—existing telephony twisted pair, existing coaxial cable, existing electric power lines, new fiber, satellites, and wireless. For each of these there is an alphabet soup of technologies to exploit it.

Digital communications, unlike its analog predecessor, does not place a premium on having a small number of these technologies dominate the market. Interfacing between digital media is substantially easier than between analog ones. Hence, one can more easily use the technology that "makes sense" in a given situation—wireless is the obvious choice for mobile applications, for example.

Nonetheless, it seems unlikely that all of the current options will persist, and that exacerbates the chicken and egg problem mentioned above. Both technical and economic considerations will eventually favor certain approaches for certain applications, and woe unto the company that has heavily invested in the wrong one(s). Thus, there is a second motivation for the telecommunications companies to deploy with, at best, deliberate speed.

(4) Archival Storage

The magnetic and optical "mass storage" technology has also been moving rapidly; for example, IBM recently announced a new magnetic "hard drive" technology that stores a gigabit—a thousand million bits, or about forty 500-page books, per square inch.

This march of technology poses a problem for archivists. In many cases the media itself is not long-lived; magnetic tapes, for example, eventually become unreadable. More importantly, however, even if the media were readable it is not clear that there would be devices to read it or applications that could interpret the information.

Just as with 8-track audio tapes and beta-format videos in the consumer domain, the computer industry has used and discarded a variety of technologies. Except in museums there are no devices that can read DEC tapes, IBM Photostore images, 7-track tapes, Univac's round-hole punched cards, or a host of other media. Each of these was commercially viable in its time, but was passed by as technology changed.

But, even if we found a device to read these media, we probably could not economically interpret the information. The first word processor, the precursor to WordPerfect, Word and the rest, was called BRAVO, was written at Xerox PARC, and ran on a machine called the ALTO. No ALTO's exist, and if they did it is not clear that copies of BRAVO exist. Thus all the documents written using BRAVO are effectively lost, even if we could recover the files.

It would be unwise to assume that any of today's mass storage technologies, including CD's, will exist in two or three decades.

Some Recommendations

The obvious question is what the Committee (the GPO, and other providers of government information) should do in the face of this "unpredictable certainty"? Repeating my caveat about knowing little about the GPO, certain that others will comment on intellectual property issues, and even more certain that there are other considerations of which I am not aware, at least three things make sense to me as a technologist:

- · to borrow a phrase, "proceed with all deliberate speed",
- experiment with new forms of electronic publication,
- · exploit the "time machine" nature of the technology, and
- help break the "chicken and egg" logjam.

I will expand briefly on each of these below, but in addition, I would also like to offer the services of the Computer Science and Telecommunications Board. The study of issues such as these is precisely what the Congress chartered us to do. Our method of operation involves appointing a committee of experts from industry and academe—literally the country's finest minds on a topic—that bring to bear a diversity of expertise and perspective. The issues here are complex, and very important; I would be far more confident of my recommendations if they had been the subject of deliberative study by such a committee.

There is no question in my mind that at some point-probably within two decades—all government information will be disseminated in electronic form. Moreover, a substantial fraction of it will be in truly electronic publications that could not be printed on paper even if we wanted to. For a host of reasons, but especially to make that information more accessible and usable, the government should move to that end as rapidly as possible. At the same time, the precise timing of the deployment of the infrastructure to support this is impossible to predict, although I would be very surprised if it were within the 5 to 7 year horizon.

In the face of this "unpredictable certainty" government agencies should be aggressively learning, along with the rest of the publishing industry, what it means to publish electronically. In part this means learning about the technical options, but there are many nontechnical lessons to be learned as well. The interaction of evolving technology, product ("what"), process, institutional roles, and customer needs/expectations will change the nature as well as the method of disseminating government information.

Thus, proceed with all deliberate speed to make as much material available electronically as possible. However, there are three important adjuncts to this

advice.

First, experiment with new forms of non-printable documents. The future, a not-very-distant future, lies in this direction. Documents that talk, possibly in languages other than English, will make government information available to more citizens. Documents that specialize themselves, for example to provide highly localized agricultural information, can provide far more detailed, yet accessible information. Documents that continuously update themselves can provide up-to-the-minute information. Again, these specific ideas might be rubbish; the point is that the new medium is not just an alternative distribution mechanism, and the GPO should be stretching to use its potential.

Second, computers can be used as a "time machine" of sorts. That is, because of the inexorable march of technology one can buy an expensive computer today and experience what using an inexpensive computer will be like in a few years. Since it takes time to develop a product—whether it be software, a service, or a publication—it is simply prudent to do so on what may seem excessively expensive equipment. To do otherwise will result in a product that is obsolete when delivered. Thus, as the government experiments with electronic publication, do so in a way that anticipates tomorrow rather than yesterday.

Third, by creating a demand, the government can play a role in breaking the logjam that is limiting deployment of higher bandwidth communications. In particular, I suspect that an investment in making federal information available in both electronic and paper form will both increase their utility and speed the

day when the paper form is obsolete.

A Final Remark

If I may presume upon my opportunity to testify here today, I would like to put in a plug for a subject of deep concern to me. The reason for the incredible advances in computing and communication technology that give rise to the hearings today is, in part, the enormously productive and effective research and development infrastructure that we have built in this country.

That infrastructure is not physical—it consists of a stew of people and ideas that has flowed freely back and forth between academe, industry and government laboratories. In an earlier CSTB study, "Evolving the High Performance Computing and Communications Initiative to Support the National Information Infrastructure" (1995), we documented the richness of this interaction for several technologies that became billion dollar industries. It is clear that each segment of society played a crucial role. It is equally clear that progress was not linear, but rather that the flow back and forth was essential to progress.

I am deeply concerned that declining federal funding of research, on the heels of downsizing that has dramatically altered industrial laboratories, will put this country on a road we do not wish to travel. The rate of technological advance may be dizzying, but let us not forget that we can become obsolete at precisely the same rate. The only way to remain competitive in this field is to run harder! I would like to strongly urge the members to support those of us running the race. Specifically that means supporting academic research as well as a business environment conducive to innovation.

Thank you, Mr. Chairman. I would be happy to answer questions.

The CHAIRMAN. Thank you very much, Dr. Wulf.

The statements of all witnesses will be admitted to the record, and we may have to invoke a time-saving procedure this morning whereby a number of questions that the Chair has, and other members, will be submitted to you in writing. And I would hope that you would have the opportunity to reply because we are quite anxious to give you the maximum amount of time for your original presentation, and then the follow-up, the Q and A, by necessity may have to be curtailed and relegated to a written form.

Dr. Galletta?

TESTIMONY OF DENNIS F. GALLETTA, KATZ GRADUATE SCHOOL OF BUSINESS, UNIVERSITY OF PITTSBURGH, PITTSBURGH, PA

Mr. GALLETTA. Good morning, Mr. Chairman and members of the committee. Probably the best way to outline my presentation is on page 12, the summary. I will be going through each of those—

The CHAIRMAN. We are not trying in any way to expedite this valuable contribution you are about to make.

Mr. GALLETTA. But that is the way to do it, right. There are

eight points there that I will go through.

I am honored to have been invited to present testimony about the user aspects of the Internet. I have somewhat eclectic research interests, but in general, I study user performance, behavior, and attitudes. I am very interested in usage of the Internet as well.

My controversial predictions of an imminent but temporary decline in personal uses of the Internet have been made public in an editorial in the Washington Post and in a recent broadcast of "All Things Considered" on National Public Radio.

I have been an Internet user for over 10 years and have used most of the features of the Internet—the good, the bad, and the

ugly—and some of it had been very ugly until last year.

The CHAIRMAN. Let me interrupt. Could you at some point give us your best estimate of percentages of Americans who have the skills and capabilities to utilize—

Mr. GALLETTA. Yes, definitely. That is in my testimony.

The thrust of my testimony is to state that while the Internet is orders of magnitude easier to use than it had been when I first started, there are still some difficulties that we have to overcome before all this—

The CHAIRMAN. You might introduce your visitor that you have with you this morning in front of you.

Mr. GALLETTA. Oh, well, yes. My testimony is on my computer. I don't print very many things that I tend to work with. I like to save—

The CHAIRMAN. You might give the vintage of your computer and so forth.

Mr. GALLETTA. It is a Gateway Solo. It is about 5 months old, so it is obsolete already.

Anyway, I think that there are still some difficulties we have to overcome before all of the Government's and country's valuable information becomes available only on the Internet. There are eight major points that I want to make, and that is on the summary.

The first point is system design takes a lot of time because designers have many, many decisions to make. Why is this an important point? I think system design takes several formal steps and often involves long delays, which leads to frustrated users. In many firms we have multiple-year waiting periods for people to put in their requests and to have systems delivered. Nevertheless, the task requires designers to decide how to subdivide a system's menu choices so that users can learn the system quickly, understand it well, and be efficient in using it.

The second point is that design choices are all the more important when systems are used by inexperienced or intermittent users. Now, how does this relate to the Internet with its legendary simple point-and-click approach available on the World Wide Web? Well, someone must design each Web page very carefully so that the intermittent user can determine accurately and quickly which words to click on to achieve their goal.

Now, one well-known problem with the Internet is the ease with which one can become lost. Poor design will make it even easier to lose your way. The experts know how to compensate for that, for poor design, by using what are essentially electronic bread crumbs to find their way back from the dead ends of cyberspace. But finding your way back leads you away from your goal, so designers need to figure out what users will be looking for and expedite their ability to find it.

The third point is that design choices need to be subjected to thorough testing before they are adopted. Many designers have been stunned by difficulties that users have with systems they built. A system a designer feels is usable is not necessarily a system that a user feels is usable. The literature tells us to test our designs before going through all the steps in building the system because we will need to change them again and again. About 10 years ago, researchers at IBM discovered that with the diverse nontechnical audience—these are Olympians and their families—they needed extensive system revisions. For example, they needed over 200 revisions of a simple pamphlet that described how to use a voice-mail system. It is easy for the reader of that study to conclude that when you leave the comfortable

realm of relatively homogeneous corporate users, abundant and repetitive surprises should be expected. What is our lesson? Extensive pilot testing over a period of months or even years would avoid a disaster.

The fourth point is that today's systems are still difficult to use and error messages are confusing. Now, it is distressing that nearly every computer I know about has a mysterious unsolved problem, baffling even the help lines. The problems range from nuisance items, like printouts that don't work exactly right or screen flickering, to complete intermittent failure. Each solvable problem takes hours and hours. Modems especially require substantial tinkering to make them work, if they work at all. I truly have a fast modem that inexplicably only works in my slow computer and a slow modem that only works in my fast computer.

It is unfortunate that this complexity takes place because users usually don't understand enough about how the computer operates to invent a solution. Now, there is an analogy made by an author named Owen of a person who brews a cup of tea in a friend's kitchen. Now, this person may have to adapt to a different color and shape of the teapot, a different location for the stove, and a different cooktop. Such adaptation is called invention, and that is usually trivial because we understand well the process of brewing some tea. We are able to invent new procedures to replace the old ones that would not work in the new setting.

When the public started buying cars, drivers needed a great deal of mechanical knowledge because the problems were abundant. In the computer realm, a great deal of help is needed to allow users to recognize their problems, identify their causes, and to resolve them.

Over the next few years, there is a serious need to provide more dependable systems to people, just as in the early 20th century there was a great need to provide more dependable cars. We can neither afford to provide depth computer training nor automobile training to all citizens. However, at the present time, there is still a need to develop a fairly accurate and sophisticated mental model of a computer before it can be used effectively or provide a librarian driver to each patron.

The fifth point—and these points take longer to describe: The World Wide Web has several difficulties, and these are outlined, and they are fairly self-explanatory. I will say a few words about each. The slow and unpredictable speed I think is dysfunctional. It can cause people to lose attention, forget details of their tasks, or become impatient. In my office, I have a very fast Internet connection. It took an hour-and-a-half to load a file once. It was a long file, but—I loaded it twice. One it took a half an hour, once it took an hour-and-a-half. I did lose attention, I did forget details of my task, and I did become impatient. Given that some documents require many minutes or even hours to receive them,

the commonly stated response time target of 1 to 2 seconds is several years away.

The second subpart there is disorganization. Any item can be linked to any other item. That creates some confusion. Information on the Web looks disorganized to some people, and some novices are overwhelmed by the disorganization. So, again, assistance I think is important to be available to wade through the confusion.

Another problem is that screens have a lower readability. If you look at experiments on readability, readability suffers on typical screens, computer screens, small ones like the one I have. Speed and comprehension both seem to fall by about 20 percent, and large diagrams and charts are impossible to view. Sometimes you have to view them only in pieces or shrink them to a size that is too small to really see.

It is very difficult to make notes on computer information, also, without printing it. Also, there are unreliable connections. You click on some links, and you have error messages, and sometimes it is because pages have been moved to another address in cyberspace. Sometimes the Internet just becomes overloaded. A very well known columnist predicts that the Internet will collapse this year due to congestion.

There is a heavy need for filtering as well. In fact, I believe

There is a heavy need for filtering as well. In fact, I believe filtering is going to be one of the major issues of computer use. The sheer volume makes it impossible to read all the information there. So a user must not only filter the information but also obtain skills on how to filter. It is a nontrivial task.

Often when you do searches, library searches, you need to use "ands" and "ors" between terms, and it is confusing to people on how to identify the terms and how to link them together.

The final sub-point is that technology is available to some segments of the population. Some statistics show that only 34 percent of U.S. households own a personal computer. Of those households, only 70 percent own a modem. Less than half of the modem owners subscribe to an online service. Some statistics published by the U.S. Department of Commerce show that far fewer households in rural and poor neighborhoods own computers. It is disappointing that the proportion of households with computers stayed relatively constant from 1995 to 1996, even with recent reports of dramatic sales increases of personal computers. I am ashamed to say—I am not proud to say I have five computers, so I am generating some of the sales and not increasing the percentage of the population having computers.

The CHAIRMAN. Doctor, I just want to focus here. I think this is valuable, what you are telling us, but, in essence, you are saying that—what percentage of the population do you think will access by means of electronics?

Mr. GALLETTA. That will access the Internet?

The CHAIRMAN. Yes, access, say, the depository libraries, whatever we are going to put out under Title 44.

Mr. GALLETTA. Well, it would be a sub-group of who accesses the Internet. Recent studies show that only between 4 and 9

percent of the U.S. population uses the Internet.

The CHAIRMAN. All right. And what you are saying, that 4 to 9 percent, they are going to encounter technical problems because of equipment and the like? As I hear somewhere, 90 percent or whatever it is that will not use electronics, we have got to make sure that we preserve equal ability for them to access it. Is that the thrust of what you are trying to get across here?

Mr. GALLETTA. Yes.

The CHAIRMAN. Good.

Mr. GALLETTA. In Monday's Wall Street Journal, there was an undate of the studies that Leite in my testimony.

update of the studies that I cite in my testimony.

The CHAIRMAN. I want to make sure, if that article is germane, we ought to include it in today's record. Has anybody read this article in the Wall Street Journal?

We are unfamiliar. If you could give us a copy of it?

Mr. GALLETTA. Absolutely. It is on page R26 of the Monday, June 17th, Wall Street Journal.

The CHAIRMAN. Thank you very much. [The article is included as Appendix B1.]

Mr. GALLETTA. Considering the most recent figures, the 4 to 9 percent is what a reasonable estimate might include, and that article does talk about the confusion in counting the number of users. But it is generally accepted that the figure has been doubling every year. If we take the 4 percent, we are still years away from complete saturation, and the growth rate is not at all guaranteed. There are many growth rates that start to slow down, and I think this one cannot sustain 100 percent growth per year for an unlimited number of years.

Internet users appear to be composed of young and relatively prosperous citizens. The average income levels of the Internet users appear to exceed \$50,000, and the average age is in the mid-thirties. Unfortunately, the vast majority, 83 percent, are Caucasian.

How do I react to the findings? Well, even the most optimistic definitions of access and usage result in one strong conclusion: A small proportion of today's population can be described as Internet users. The low proportion of computer and modem ownership can explain this, or perhaps relatively few people find Internet access valuable to them.

Now, that brings me to the seventh point. Different groups of people will perceive different levels of benefits and costs from using the Internet. I have informally described users in this set of people. The first set is the core computer professionals. They will suffer any costs of using technology. Their perceived costs are of no consequence. The benefits are extremely high. Then you have people who collaborate, who work together. They acquire data for research studies, communicate documents, distribute

their results. Their costs are quite low, and their benefits pretty high.

Independent researchers find some intermittent advantage in using the Internet. They acquire some data for particular studies that they do. The costs are a bit higher for them, but the benefits are high as well.

Now we have the three groups of bystanders who are not involved in job benefits from the Internet. The curious group has no defined need, but they are really interested in how they might take advantage of the Internet resources. They often don't want to be left out. Their costs are moderate, I think, and their benefits could be moderate as well.

The casual bystanders don't really have much curiosity. They have to be sold on the Internet. So others, their friends, will have to sell them on the richness of the resource. Their costs I think are bound to be high and the benefits relatively low.

Then we have the group of uninterested bystanders. They avoid the Internet completely. The costs are extremely high to them; the benefits are completely unknown to them.

Now, these are all perceptions, I think, that people, the various groups of people have. It is likely we have saturated the professional groups and probably are starting to ease into the groups of bystanders. I think we have to look at personal wealth as one of the issues. Perhaps the people in the poorer groups will have to restrict their usage to a school, work, or library environment. The last two groups will probably be the last to be converted.

It is probably fair to say that the costs have not decreased to the point where they are below the perceived benefits for the last three groups.

That brings me to the last point. Librarian-led searching will probably be required for the foreseeable future in libraries. There are several reasons to recommend this. First is that computers are difficult to use, and the users are probably going to be very intermittent users. Second is most people lack experience in performing searches, especially those requiring special logic. And we can't expect all citizens to have equal access to Internet documents or even to gain experience from home. The details of searching and document reading will need to be worked out. In particular, it might be feasible to leave most articles unprinted and divert the printing costs toward the purchase of a high-speed laser printer in each depository library. Users who desire hard copy could be charged for printing each document. One difficulty is in how we decide how to serve users who don't wish to read the documents online and who can't afford the printing costs. So some policy has to be made.

I appreciate the opportunity to present my testimony and would be happy to respond to any questions.

[The prepared statement of Mr. Galletta follows:]

PREPARED STATEMENT OF DR. DENNIS F. GALLETTA, ASSOCIATE PROFESSOR, BUSINESS ADMINISTRATION, JOSEPH M. KATZ GRADUATE SCHOOL OF BUSINESS, UNIVERSITY OF PITTSBURGH, PA

I am Dennis Galletta, Associate Professor of Business Administration at the Joseph M. Katz Graduate School of Business, University of Pittsburgh. I am pleased to have been invited to present testimony about the user aspects of the Internet, which is consistent with my research and teaching experiences to date. I began my inquiry of user performance, behavior, and attitudes with my dissertation in 1985, and today continue this line of research. My predictions of an imminent decline in personal usage of the Internet have been made public in an editorial in the Washington Post and in a recent broadcast of "All Things Considered" on National Public Radio.

My teaching interests are in Human-Computer Interaction, Foundations of MIS Research, Commerce on the Information Highway, and introductory Information Systems to audiences of MBA students, Ph.D. students, and executives. To date I have published articles in 11 journals and also a book in the MIS area, and I am on the editorial boards of three journals. I am a Council member for the Association for Information Systems representing the Americas region, and am the Treasurer for the International Conference on Information Systems. I am also a member of the American Institute of Certified Public Accountants, Pennsylvania Institute of Certified Public Accountants, Association for Computing Machinery, Human Factors Society, and the Institute for Operations Research and the Management Sciences.

It is probably also important to note that I have been an Internet user for over 10 years, and have used most of its features: the good, the bad, and the ugly. The thrust of my testimony this morning is to state that while the Internet is orders of magnitude easier to use than it was in 1986, there are still some difficulties that must be overcome before all of this countrys valuable information becomes available only via the Internet.

The User Perspective

Most of us are amused by the oft-heard saying: "My VCR always flashes 12:00," and a surprising number of us return home to the same situation. This benign symptom signals an underlying clash between humans and machines. This testimony will describe the relationship between humans and machines, and how this relationship suggests a process by which the American people might be assured of equal, effective access to accurate and authoritative public information.

This testimony is aimed at improving the relationship by covering:

- Characteristics of computer systems, such as one that distributes massive amounts of information to the public
- · Characteristics of users:
 - · who uses and who will need to use interconnected systems
 - · current difficulties they face in using those systems
- How a better understanding of users might affect the design of those systems

Computer Systems

In general, business-oriented computer systems enable users to enter transactions or view data entered by other users. Examples of transactions are sales entries, additions to or deletions from inventory, and corrections of mailing list information. Viewing data is often accomplished by making available sets of pre-specified reports, or allowing users to specify their own reports. These systems require a designer to discover users' needs and construct the system to satisfy those needs.

System Design

Most systems are designed by following a process of analysis of needs, then a process of synthesizing pieces that will satisfy those needs. Many users are surprised by the length of time necessary to build those systems. The analysis process typically involves an initial statement of need, a study of the proposed systems feasibility, a detailed study of user needs, a full description of the current

system, and then an identification of what changes are needed. The synthesis process involves writing and testing small chunks of computer programs, putting them together and into complete programs, testing the programs, then putting those programs together into the entire system for final testing.

The systems are usually designed by groups of individuals working in parallel, but there is a limit to how many group members can be added to hasten the development of a system (Brooks, 1975). Each new group member carries along the requirement for added communication with the other group members.

Therefore, systems require a great deal of time to develop, because of the need to undergo a careful, step-by-step process to assure that most user requirements will be discovered, addressed, and eventually satisfied. The most difficult user requirement to discover is the requirement for usability.

It is difficult to achieve the goal of usability. One source of difficulty between humans and machines is the machines requirement for formal, structured, errorfree input. That input is accomplished along three fundamental paths: systems most often require automatic data entry, as in grocery store bar code scanning; memorized commands, as in airline reservations; or "menu" choices, as in most modern systems.

Commands and Menus

Automatic data entry enables extremely high speed communication with a computer, but supports only a limited set of inputs. A bar code scanner only triggers one kind of entry into a database, and all other interaction with the system requires memorized commands and menus.

Memorized commands provide high flexibility and reasonably high speed, but bring with them the need for a great deal of training. It is generally accepted today that it is probably unnecessary and inappropriate to require intermittent users to memorize complex commands.

The menu-based systems familiar to most of us enable pre-specified actions to take place when words or phrases displayed in a list are chosen. Some menus are highly prominent, filling the entire screen, while others are largely hidden, requiring activation in some way. They may require that the menus be "pulled down" by clicking on a main menu choice that stands for the general category of the subordinate menu choices, "popped up" by clicking a special button in a certain way, or otherwise revealed at appropriate times.

There is no "best" choice of interaction method, because the complexity of the need will drive the complexity of the interface. When an interaction method is chosen, there are many choices that must be made to support the user's task. A command language needs to be designed, and support for entry format, abbreviations, and options must be built. It is surprising how difficult it is to create a consistent yet concise language. A menu-based system also requires the identification of commands that need to be carried out, but also requires that the designer organize them in some way to enable users to find them when needed.

Regardless of the approach taken, most systems enter "modes" during their usage. Modes change the state of the screen, making only certain options available, and often require users to return to a previous mode to continue in their task. For example, when selecting an option to edit a customer's information, it is not possible to enter a transaction for that customer without exiting the "edit" screen and entering a "transaction" screen. The unfortunate characteristic of the use of modes is that users often do not notice the change in the system's state, and become confused.

A goal of system design, therefore, is to provide the smallest number of modes because these modes lead to errors or user frustration.

Ease-of-Learning

Systems of the past did not need as much care in ease-of-learning because they were designed for constant usage by a limited number of people who gained substantial expertise over a long period of time. Users expected to be required to undergo substantial training before becoming productive. In contrast, modern systems have the opposite set of expectations. They are used by a wide variety

of inexperienced people, who will use them intermittently. This profile requires a different approach to system design.

The requirement for ease-of-learning or ease-of-use for intermittent users would dictate that menu-based interaction be chosen, and that menu choices be arranged in a meaningful hierarchy to enable users to find them with little need for searching. Minimizing the need for searching will reduce time needed, errors committed, and frustration felt by users. Providing a high degree of consistency will also facilitate those same goals.

Enter the Internet

The Internet is composed of several different services, including electronic mail, discussion groups, file transfer, and, most recently, searching and browsing for information. The World-Wide Web is a composite service, which began as a browsing tool, then expanded to provide all of the other Internet services. The Web is very popular largely due to human factors. The Web began as a browsing tool, then expanded to provide all of the other Internet services. The Web is easy to use because of the incorporation of menus, minimization of modes, consistency of interface, and tailoring to intermittent users. The rich amount of information available, and attractive and engaging graphics and colors also contribute to it's popularity. "Pages" on the Web range from frivolous to serious, entertaining to informing, and non-sensical to authoritative. While there are significant advantages of publishing documents on the Web rather than on paper, there are difficulties as well.

Internet Advantages

The obvious advantages of using the Web for publishing documents are three-fold:

- · Paper is saved.
- Access is provided immediately to anyone in the world who requests a document.
- All of the most common types of computers are already compatible with the Web.

The Web's features come at low cost to unfamiliar or intermittent users. It incorporates menu choices into screen text, enabling users to make choices among highlighted terms. The term for this interaction is known as "hypertext," which allows the system to display screens of additional information when the "links" to them are chosen by pointing and clicking. Most new users find the Web highly appealing once they see it in action, because it is often the first time they have seen a computer system that seems to allow such ease of use and provide such rich data.

Internet Difficulties

There are currently some serious difficulties with the Web, however. Those difficulties include:

- Its speed is very slow and unpredictable.
- It is disorganized.
- Readability from the screen is lower than from paper.
- · The connections are unreliable.
- · There is a heavy need for filtering.

• The technology is unavailable to large segments of the population.

The Web is too slow and much too variable in its response time, considering the wealth of human factors research on computer response time (see, for example, chapter 7 of Shneiderman, 1992). The slowness and variability can cause users to lose attention, forget details of their tasks, or become impatient. Although there is no absolute requirement for response time, in general a common target is to reduce any waiting time to a second or two. Given that some documents are so long that many minutes or even hours are required for receiving them, this target is some years away.

Given the usage of hypertext links, nearly any piece of information can be linked to any other piece of information. Information on the Web might therefore appear to many users to be overly confusing and disorganized. Because some

novices might be overwhelmed by this, it is obvious that assistance should be available for wading through the confusion.

It is more difficult to read text on a traditional computer screen than on paper. Experiments by John Gould and colleagues (1987a, 1987b) have established that readability suffers because of the lower quality of the characters on the screen as compared to the characters on paper. The speed and comprehension penalties each appear to be on the order of 20%. Further complicating readability is the constant shape and size of the screen, which makes it difficult to view large charts and graphic images. Finally, it is not yet possible to make notes on this information without printing it.

The unreliability of connections appears to be on the rise. Many links return an error message, and there are two basic reasons for such messages. The first is because the linked object has been moved to another address, and the link has not been corrected. This is exactly analogous to a mailing list that contains an old address for a recipient; the mailing list must be updated from time to time. Another reason for error messages is Internet overloading. Robert Metcalf, a columnist for *InfoWorld Magazine*, predicts that the Internet will break down because it is becoming overloaded (Metcalfe, 1996). Entire sites have been known to become unavailable for brief periods, and Metcalf warns that this will become more and more frequent until the entire system halts this year.

The sheer volume of information makes it impossible to read it all. Therefore, a user must not only expend energy to filter the information, he or she must also obtain skills in that filtering. Complicating the task is the difficulty of determining what information is authoritative, trustworthy and genuine, (of utmost importance in using government information) and differentiating fact from opinion.

Finally, based on statistics from Software Publishers Association reported by Reuters (1996), only 34 percent of U.S. households owned a personal computer. Of those households, only 70 percent owned a modem, and less than half of modem owners subscribed to an on-line service. Statistics published by the U.S. Department of Commerces (1995) National Telecommunications and Information Administration show that far fewer households in rural and poor neighborhoods own computers.

The proportion of households with computers stayed relatively constant from 1995 to 1996, even with recent reports of dramatic sales increases. It is possible that many purchasers are replacing older computers, somewhat limiting the growth of the proportion. Fear of assembling the components is often discussed, yet the most vexing problems appear to be installing software (particularly communications software) and setting it up to run properly. Frequent version upgrades and intermittent usage lead to a huge training gap as far as software is concerned.

The Future

In the future, many of these problems will diminish. Speed is projected to increase substantially, and technical experts like Metcalf are optimistic about the Internets ability to handle the traffic a few years after the crash. Regular users will become accustomed to the web-like structure, and will discover how to navigate without confusion. Screen quality continues to improve, and further improvement will close the speed and performance advantage of paper. Larger, more flexible screens will ease the task of displaying large objects. Software might become available to support note-taking. Connections will become more reliable with the creation of forwarding address technology, and with an increase in alternate paths to any Web page. Through experience people will acquire more skill in filtering. Finally, cost and knowledge barriers should decrease, but will continue to be vexing problems. Costs will decrease to the point that modest computers will be much more affordable to all, perhaps stimulating their penetration to a broader base of users. Further standardization of the interface of a wide variety of software packages, and within disparate Web pages of large-scale sites, will reduce the training barriers somewhat. Further developments in operating system technology should reduce the difficulties of setting up software applications.

By examining the wealth of highly useful Web sites, one is tempted to forecast a significant increase in the usefulness of the Internet in the coming decade. Real-time traffic maps, weather maps, and reporting tools show the potential of the Internet to provide environmental data. Discussion groups allow information to be shared quickly, which has proven valuable in times of crisis, for exploration, and for education; whether sharing opinion or fact, it is often very valuable to communicate with others. It is valuable to have constant access to announcements of current events and schedules of all kinds. Before purchasing a product or service, a consumer can search for specifications, photographs, and instructions.

To make more detailed predictions of the future, it is useful to take account of the current demographics of the Internet as accurately as possible.

Demographics of the Internet

Several recent surveys have been conducted to determine how many people use the Internet, and who they are. Three of the most visible surveys were offered by CommerceNet/Nielsen Media Research (1995), FIND/SVP (1996), and O'Reilly and Associates (1996). Each provides valuable insight into Internet usage.

Survey Findings

The CommerceNet/Nielsen study released in October, 1995 is known as the most optimistic, and the high numbers might have resulted from a liberal definition of what constitutes access. Nielsen reports that there are 37 million adult users (16 and over) users in the U.S. and Canada who have any access at all to the Internet (even via roommates of school officials), and that 24 million of them used the Internet in the 90-day period prior to the August survey contact. The population figures of U.S. and Canada suggest that 17 percent have access to and 11 percent use the Internet. Over two-thirds of the users access the Web. A significant number of Internet users have high income. The most surprising statistic revealed that if Internet usage is averaged over all households, it compares favorably to the average amount of video tape rental in the two countries (35 minutes per week) Sampling in this survey has been criticized by Hoffman and Novak from Vanderbilt University, and this survey probably should be considered to be an upper bound for that period of time.

FIND/SVP's (1996) study released in January was more conservative because it only included users who used at least one other Internet service besides electronic mail. The results indicated that 9.5 million adults (18 and over) use the Internet, and about 75 percent of them use the Web. This represents about 6 to 7 percent of the adult population. The average age of users is 36, and their average income is \$61,500. The most disturbing statistic from this study was the ethnic distribution of users (83 percent are Caucasians, 5 percent are African Americans,

and all other groups were at or below 3 percent each).

O'Reilly and Associates employed the same definition of user as did FIND/SVP; only U.S. adult subjects (over 18) using electronic mail and one other Internet service were counted. O'Reilly reports 5.8 million adult U.S. Internet users in 1995, and projects 15.7 million in 1996. This represents only about 4 percent of the population. The average age is in the mid-30's, with the largest segments between 18 and 24 and between 35 and 44. The average annual income of Internet users is somewhere around \$50,000.

All three surveys report that about two-thirds of the Internet users are male.

To summarize these findings:

 Exact counting of Internet users is very difficult due to differences in definitions of "users," "access," and "adult."

 Somewhere between 4 and 11 percent of the adult population use the Internet actively.

Internet users are relatively young.

· Internet users are predominantly white males.

Average income levels of Internet users appear to exceed \$50,000.

• The World-Wide Web is the preferred mode of usage of the Internet.

Abstracting across the three studies, it is apparent that even the most optimistic definitions of "access" and "usage" result in one strong conclusion: A very small proportion of today's population can be described as Internet users. The low

proportion of computer and modem ownership can explain this. Perhaps relatively few people find Internet access valuable to them.

The Value of Internet Access

Internet access has differential value to its wide variety of potential users. Some citizens are computer professionals, while others have never felt the need for turning on a computer. It might be helpful to consider possible groupings of American adults, listed in descending order of effort they are likely to be willing to expend in accessing the Internet. It should be emphasized that this list is purely my speculation, and that no surveying or counting has been done.

Computer Professionals: This group has used computers and the Internet for some time, as an important component of their working lives. Several in this

group also have computing as a significant hobby.

Collaborators: This group finds significant and nearly constant advantage in Internet usage, in acquiring data for research studies, communication of documents, and distribution of results.

Independent Researchers: This group finds intermittent advantage in access-

ing the Internet for acquiring data for particular purposes.

Curious Bystanders: This group has no defined career needs for accessing the Internet, but are interested in how they might take advantage of its resources.

Casual Bystanders: This group, also with no defined career needs for Internet access, might be made interested by others who will "sell" them on the richness of the resource.

Uninterested Bystanders: This group avoids the Internet at all costs.

The usefulness of such a proposed scheme is in the prospects for predicting future saturation of the Internet when considering benefits and costs of its usage. Financial and non-financial perceived benefits must exceed perceived costs. Benefits to the first three groups are very high, and greatly exceed costs in the first group.

Computer professionals seem willing to suffer any torment of technology, while collaborators and researchers are less tolerant. It is likely that we have saturated the first two groups and are currently converting a large proportion of

the third group into Internet users.

Curious bystanders might worry that they will miss something, and are likely to behave in two different ways depending on their socio-economic status. Relatively wealthy individuals in this group are likely to purchase the required hardware and software, with little to no actual usage. Several articles in the popular press in the late 1980s cited the existence of computers that gathered dust in homes. Poorer individuals might restrict their usage to a school or work environment. Internet saturation into this level is probably very low.

The next two groups of bystanders perform a much more demanding cost-benefit analysis. Those who are not very curious might find it difficult to determine any benefits whatsoever, and relatives or friends would find them in need of convincing. The last group might harbor fear or animosity towards technology, and would be unwilling to imagine any benefits that could exceed the nearly infinite perceived costs.

These groups and their likely perceptions of costs and benefits are summarized in the table below.

Likely Perceptions of Economic and Non-Economic
Costs and Benefits of Internet Use

Segment of the Population	Perceived Costs	Perceived Benefits
Computer Professionals		
Collaborators		
Curious Bystanders		
Casual Bystanders		
Uninterested Bystanders		

To use these groups for making any projections of the future of overall Internet saturation, research to determine the proportion of individuals into each group, and then assess the likely saturation of each group. While many are predicting further continuation of the 100 percent per year increase in Internet users, it is my speculation that our technology is lagging, and that the costs have not decreased to the point that they are below the perceived benefits for the last three groups. Time requirements need to decrease, especially in the area of software setup, training, and even usage. Although economic requirements are being addressed by firms planning to sell inexpensive Internet workstations, and free Internet access is available from some long-distance carriers, the time requirements are seen as high hurdles by many non-users.

Other Usage Requirements

Users are also required to possess the knowledge, skills, and abilities to use the systems. It is perhaps obvious to claim that computer professionals were led into their careers by those attributes of aptitude. If true, then the converse statement might also be true: the bystander groups probably lack a great deal of those attributes.

Equipment is Difficult to Use

While the physical actions would seem to indicate that technology is easy to use, there is some contradiction when comparing the ease of those actions with actual user behavior. For example, pressing remote control buttons to set the clock on a VCR is very easy. One usually only needs to press a "menu" button and follow on-screen prompts for entering the time in hours and minutes. Older VCRs (without menus) also involve simple button presses. In those cases, several buttons need to be provided because of the lack of menus. One would usually press a CLOCK button and then repeatedly press an ADVANCE button to take the clock through the hours and minutes.

Why, then, do so many VCRs flash 12:00? It appears to be related to a cost-benefit analysis performed by users. The costs include searching for the instruction manual and/or crouching on hands and knees in front of the device. Benefits include the absence of flashing red digits and new opportunities to set the timer for recording programs. Interest and aptitude will decrease the perceived costs and increase the perceived benefits.

The Internet is more difficult by an order of magnitude. While they have been simplified substantially over time, computers and their operating systems still present users with some of the most complex problems they will ever face. Problems abound when users buy computer accessories that have never been tested with the particular combination of operating system version and computer brand and model. Modems present more difficulties because they add a new untested element: the particular corporate or educational computer system on which the user tries his or her connections.

The Need to Invent

It is unfortunate that this complexity takes place, because users usually do not understand enough about how the computer operates to "invent" a solution. The analogy made by Owen (1986) is a person who intends to brew a cup of tea by following his or her traditional instructions, but in a different kitchen. The person might have to adapt to a different color and shape of the tea pot, a different location for the stove, and adapt to electric burners when accustomed to gas burners. Such adaptation, called "invention" is usually trivial, because we understand the process of brewing tea. We are able to invent new procedures to replace the old ones that suddenly do not work.

When driving a car, understanding the internal engine processes is usually thought of as unnecessary. But when problems occur, only those with an accurate intuitive understanding of how the engine components interact, can make adjustments and keep the automobile running. Fortunately, there are now few problems, so mechanical knowledge is no longer a prerequisite to driving.

When using a computer, there are quite often unexplained outcomes. Some are due to mechanical problems, some to software errors or inadequate guidance, and some to improper user actions. A great deal of help is often needed to allow users to recognize what are indeed real problems, to identify the causes of problems, and to resolve those problems.

Over the next few years, there is serious need to provide more dependable systems to people just as in the early 20th century there was a serious need to provide more dependable automobiles; we can neither afford to provide depth computer training nor automobile repair training to all citizens. However, at the present time, there is still a need to develop a fairly accurate and sophisticated mental model of a computer before it can be used effectively, or provide a librarian "driver" to each patron.

Special Difficulties in Searching

Librarians have for years helped patrons formulate search commands or search terms, using computers to find books, articles, or other materials. Many patrons have little experience in performing such searches, and are unfamiliar with the manner in which logical expressions work. Especially difficult are achieving accurate and full understanding of the effects of complex combinations of the conjunctions and, or, and not when coupled with search terms. It will be difficult to provide equal access when patrons have such disparity in their skills. Emotion

One other difficult barrier can prevent effective use of technology is in the area of emotion. The mass media provide fearful views of technology, by focusing on hackers, thieves, and renegade computers. Others are committed to a given platform (brand, operating system, model, etc.) and look with disdain at any other method of using computers. Heated arguments are conducted over what are the best computers, platforms, or applications. Finally, millions of individuals have lost their jobs directly or indirectly as a result of machines, computers, or other technologies.

Implications

There are several implications of the state of Internet usage today. First, we cannot expect all citizens to have equal access to Internet documents from home. There are many different income and education groups to cover. There are also groups of potential users who have a variety of interest in the Internet, and varying needs for information. There are also significant time costs involved in setting up a computer system. Problems abound, and many are never identified. Finally, there are also emotional barriers to effective computer usage.

This would suggest that home access to documents is not currently feasible, and will not be feasible for some time. Access in libraries is somewhat more feasible, but the lack of accurate mental models and a lack of training in search strategies will limit users' effectiveness. The most feasible model for providing electronic access would be to have well-trained librarians on hand to assist in nearly every search, while alternative models of the system are subjected to Darwinian forces.

Recommendations

Recommendations for proceeding, gleaned from the observations above, include the following.

First, the age-old "introspection" method of determining system design cannot be adopted for creating access to a large number of documents. A system that a designer feels is usable is often not a system that a user feels is usable. This is not only true for users in a corporate setting, but is especially true for users without any specific orientation or training in technology.

According to Gould and his colleagues (1985), extensive design and testing are required before usable systems are developed. Menus and screens have to be developed carefully by considering the users and their tasks. The effects of modes on user performance and ability to "invent" their way out of error situations would be critical to assess. Such development will take time, given that we dont know very much about how the diverse set of users of government documents will perform their tasks using a computer.

Once the initial designs are developed, there is a need to est them thoroughly using pilot studies or other experiments. Any design flaws found during testing should be corrected and a new round of testing should begin. Such testing could take months or even years. Gould and his colleagues (1987c) described how they

discovered through testing the need for creating over 200 revisions of a simple pamphlet that described how to use a voice mail system.

A hybrid access scheme might make the most sense for government documents for some time. The hybrid scheme might involve both personnel and printing procedures.

Personnel might need to be on hand to conduct nearly every search until users are cognitively and emotionally ready to conduct them. This applies largely to todays large majority of non-Internet-using citizens, and perhaps some portion of todays Internet-using population.

It might be feasible to divert the printing costs toward the purchase of a high-speed laser printer in each depository library, and charge users the standard copying cost for printing the documents, if they desire hard copy. A difficult problem is in serving a user who does not wish to read the document on screen and cannot afford to pay for the document. Some method of granting such a request in certain circumstances might need to be developed. For example, short documents or portions of documents might be printed on request without cost. Free printing of longer documents or portions might be set up to require self-reports of income and other data that can qualify individuals.

Summary

In short, the following observations should be made:

- System design takes a great deal of time, as there are many options that can be chosen by designers.
- Because some systems are used by inexperienced or intermittent users, their design choices are all the more important.
- Design choices need to be subjected to thorough testing before they were adopted.
- The World-Wide Web has several difficulties, including:
 - slow and unpredictable speed
 - disorganization
 - lower readability
 - · Unreliable connections
 - a heavy need for filtering
 - technology that is unavailable to large segments of the population
- Very few people use the Internet, in spite of all the publicity.
- Different groups of people will perceive different levels of benefits and costs from using the Internet.
- Today's systems are difficult to use, and there is substantial need for understanding how the computer works so that error (and other) messages can be understood and proper action taken.
- Librarian-led searching will probably be required for the foreseeable future.

I appreciate the opportunity to present my testimony, and would be happy to respond to any questions.

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The CHAIRMAN. Thank you very much, Doctor. Now, Mr. Smith?

TESTIMONY OF ROBERT L. SMITH, JR., EXECUTIVE DIRECTOR, INTERACTIVE SERVICES ASSOCIATION, SILVER SPRING, MD

Mr. SMITH. Thank you, Mr. Chairman. I want to thank you and your colleagues for providing the ISA the opportunity to present testimony today.

I think the way to characterize my presentation, my testimony, is to contrast a little bit with what the two gentlemen have been speaking about today and really to complement. Our association, our members have been working for over 15 years figuring out how do we take this computer and communications technology and make it a mass market like the telephone and like television is today. It is a daunting challenge, but one that has made great progress. And what I would like to present to you is other ways in which to use electronic media, to use communications and computer technology to reach a broader segment of our population.

Essentially, what I would like to do is cover four points with the committee. I will give you a quick overview of interactive services in the U.S. In other words, it is more than just the Internet, and I think that is an important point to understand.

Second, how the Federal Government should provide electronic public access to more than just information. There are incredible capabilities available at the hands of the Government, using technology that is here today that is available to almost every American.

Third, why the Federal Government should be prepared to make its information and services available to different interactive platforms, and we will get into my discussion of why it is more than just the Internet.

Then, fourth, I would like to suggest that there may be a role for a central office in the Government to help all the agencies better understand how to make use of interactive technology and media to provide electronic information and services to a broader group of American people.

What I would like to first discuss is that our view of interactivity is that it is easy-to-use telecommunications services that provide information exchange, commission, transactions, and entertainment and that services today are currently

accessible by personal computer and modem, which the two other witnesses have already testified, but the telephone. And then there are other devices: screen telephone as well as the television. All are for personal use both in the home and in the office, but clearly the PC with a modem is the dominant way in which to access a form of interactive services which we call the Internet.

The most popular interactive services in our country today and in the world fall into five categories. First is fast-changing information, such as news and sports scores and so forth. Second is electronic communications: e-mail, realtime chat, and conferencing. I can imagine the gentlemen to the right of me probably get more e-mail than they can possibly process on a daily basis, and that is becoming a problem for a lot of us. Third is transactional services, the ability to purchase products and services over the Internet and other media. Fourth is entertainment. We do have fun with this new media, new games and other entertainment services. And fifth is computing, the downloading of software and providing software and hardware customer support.

Now, I think the two previous gentlemen have already discussed pretty well the Internet. Let me just quickly touch on a few points. In the first quarter of this year, of 1996, there were over 13 million subscribers to PC-based commercial consumer online services, U.S.-based online services generating over \$2 billion. The interesting figure of that is by the end of 1995 there were approximately 11 million subscribers. So in really 3 months, subscriber growth increased by nearly 2 million, or 20 percent.

That is a phenomenal growth rate for any industry.

Now, complementing the commercial online services is the Internet, which is a much broader, worldwide phenomenon, and as Dr. Galletta presented in his testimony, there are many different figures of what is going on. Because it is such a worldwide environment and so decentralized, there are over 9 million host computers connected to the Internet worldwide, and people estimate there are anywhere from 15 to 30 million users.

What one can say is it is just a phenomenal way to get information and to communicate, like my neighbor communicates with his daughter regularly in Israel through e-mail, and he does that at a very low cost, I might add. And he keeps in touch with his child very closely that way. This is happening all across the U.S. as well as the world.

Now, I would like to submit for the committee that while the Internet and online services are capturing most of the headlines, there are other interactive platforms that are being used every

day by consumers—

The CHAIRMAN. Let me make that clear: other interactive platforms. Be careful when you digress from your microphone.

Mr. SMITH. I am sorry. And these are platforms that have real use for American consumers today. For example, the plain old telephone that we all use every day, it is present in over 93 percent of all U.S. households. In addition to normal voice communications, the telephone is now an effective interactive audio device. In some of our own research in 1994, more than 159 million calls were made in 1994 to 36,000 different interactive voice-based programs, resulting in an industry of \$600 million in annual sales. Now, we have only done survey results for the first quarter of 1995, but it leads us to believe that there will be over 165 million calls in 1995, this past year, made to 50,000 different interactive voice-based programs. So here is a platform, a medium that almost every consumer has available that can provide valuable information to all Americans. And I think it is a valuable platform that the U.S. Government should take a look at.

In addition to these two widely used platforms, there are others that the industry is busily investing in and developing.

One is major telecommunications companies such as Bell Atlantic, Time Warner, TCI, and GTE are testing a wide range of interactive television products and services. Now, while recent reports have noted the retrenchment in this platform because of the costs and the uncertainties that have been mentioned earlier, the experience of telecommunications and computer technology over the past decade ensures that broad-band interactive television is inevitable. We are just not certain when that is going to happen, but clearly television is pervasive in American households.

Another important development that the committee may not be aware of is the interactive platforms in screen telephones. These are telephones like you and I use, with a small screen—it could be 3-by-3 inches or 3-by-5 inches—that displays text and some graphical information. Major companies like Citibank, BellSouth, Philips, and Northern Telecom are introducing screen telephones to consumers for banking electronic phone directories, e-mail, and other interactive applications. And some of these telephones are priced under \$500, and they are almost as simple as using a telephone.

It is estimated there are approximately a quarter million of such devices in use today, and the industry is just starting getting underway.

The screen telephone and the—

The CHAIRMAN. Let me interrupt. We will introduce into the record all of your testimony, but I must alert you to two problems. One, you will note that the Senate is in a quorum. The Armed Services authorization bill is on the floor, and my subcommittee chairmanship has jurisdiction over what the amendment is at the moment. So I have to return to the floor no later than 11:00, and I want to accord Mrs. Simon the full opportunity to present her direct testimony. And I am going to

ask the archivist if you could come back at a later date, and that way I can accommodate the next panel by subdividing it.

So we want to receive the full benefit of your testimony, but I must tell you, this committee has jurisdiction over essentially the Title 44 problems, and while I am interested—and I am sure many others are—in a lot of the other material relating to cyberspace and what is out there, we want to focus on what is the jurisdiction that we are directed to. So if you could continue along those lines, Mr. Smith?

Mr. SMITH. Well, in the interest of time, I think I can perhaps summarize my statement.

The CHAIRMAN. With the understanding that your entire testimony would go into the record.

Mr. SMITH. And I assume if I would like to amend what I have submitted to the committee, I can do so.

The CHAIRMAN. Yes, of course.

Mr. SMITH. I guess the two points that I want to make are that even with some of the jurisdictional issues, there is technology out there, number one, electronic technology, that all Americans can make use of today, and it is not just the Internet and the complexities of the Internet. And I think that is important to look at these other technologies and what they can do to make sure more Americans have access to this kind of technology and platforms.

Second, I think it is important to realize even if only a minority of Americans can make use of certain technology, that means that the more traditional ways in which the Government communicates with the citizens are then available for those who can only make use of those traditional ways. For those of us who are fortunate enough to use new technology, it provides us with a convenience and it reduces the personnel resources being placed on our agencies.

The CHAIRMAN. Those are very important points.

Mr. SMITH. And I guess the last is that—and perhaps it is not within this committee's jurisdiction and may be worthwhile to look at in a broader context—these technologies do provide a wide opportunity for the Government to serve its citizens better in a more cost-effective way, and I think to make the Government closer to the citizens so it is not as remote as the geographical distance provides, and that it can do things to improve not only the information exchange, but the communications, even the communications with the Members of Congress.

I think there is a need within the United States Government to have some kind of central authority, maybe even very small—I am not talking about a big bureaucracy—a small office that could help advise all agencies and Congress how to make use of these new technologies in a very cost-effective way that brings the Government closer to Americans.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Smith follows:]

PREPARED STATEMENT OF ROBERT L. SMITH, JR, EXECUTIVE DIRECTOR, INTERACTIVE SERVICES ASSOCIATION, SILVER SPRING, MD

Mr. Chairman, I want to thank you and your colleagues for providing the Interactive Services Association (ISA) with the opportunity to discuss how the federal government can make better use of interactive media to improve public access to federal government information and services. As executive director of the Interactive Services Association, I appear today on behalf of the ISA's 325+ members.

As the 14-year-old North American non-profit association serving businesses that deliver telecommunications-based interactive services to consumers, the ISA is very familiar with how businesses, non-profit organizations and governments can effectively use interactive technologies to deliver timely and beneficial information and services to consumers. The ISA's members (see Appendix A) represent the full spectrum of industries now active in delivering personal interactive services. The ISA's membership includes companies from the cable, telephone, computer, broadcasting, publishing, financial services, travel, marketing and advertising industries. There are also members that operate exclusively in the interactive services business, including online service operators, interactive television operators and pay-per-call service bureaus.

The member organizations of the ISA provide consumers and business users access to a number of interactive services for hands-on use, including:

- News
- Education
- Travel
- Shopping
- Health
- Advertising
- Electronic Mail/Bulletin Boards
- PC Hardware/Software Support
- Banking/Financial Investment
- Games and other entertainment
- White and Yellow Page directories
- Services for Senior Citizens and Individuals with Disabilities

When the ISA was formed in 1981, the association and its members had a vision that interactive services would be as common to American consumers as broadcast television and the telephone had become. Back in the early 1980's, very few Americans knew anything about interactive services, online communications, or even what a modem was. The Internet was a complete unknown to the general public. In fact, public awareness and understanding of our industry has occurred only in the last few years. While important strides have been made in transforming the ISA's vision into reality during the past 14 years, the industry still has a long way to go before our vision is fully realized. We are, nonetheless, moving ever closer to that vision.

In my testimony today, I would like to discuss four points with the Subcommittee:

- 1. An overview of interactive services in the U.S.;
- 2. How the federal government should provide electronic public access to more than just information;
- 3. Why the federal government should be prepared to make its information and services available via several interactive platforms; and
- 4. Why the federal government should seriously consider the formation of a central office to guide the government's use of interactive technology in providing electronic information and services to the American people.

INTERACTIVE SERVICES IN THE U.S.

During the last decade, the way Americans gather information, educate themselves, work and play has been radically changed by the advent of interactive services. The recent publicity surrounding the Information Superhighway—emerging high speed networks that will carry voice, video, and data services—has increased the public's awareness of interactive services and their potential for affecting their own lives as well as those of their children.

The ISA defines "interactive services" as easy-to-use telecommunicationsbased services designed for information exchange, communications, transactions, and entertainment. These services are currently accessible by a personal computer (PC), telephone, screen telephone, or television and are for personal use, both in the home and the office. Today, a PC with a modem connected to a telephone line is by far the dominant way in which consumers access screen-based interactive or online services.

The Interactive Applications

The most popular interactive services fall into five general categories. Consumers look to interactive services to bring them:

- 1. fast changing—news, sports scores, financial services, and directories;
- 2. electronic communications—e-mail, real time chat, and conferencing;
- 3. transactional services—banking, grocery shopping, travel reservations, and other product shopping;
- 4. entertainment—games (especially multi-user games), horoscopes, entertainment news and movie reviews; soon to include movies and other video programming on demand; and
- 5. computing—the downloading of software and software/hardware customer support.

The Interactive User Device

As of the first quarter of 1996, there were over 13 million subscribers to PC-based commercial consumer online services generating over \$2 billion annually in subscription, transaction and advertising fees. At the end of 1995, there were approximately 11 million subscribers. Thus in a 3-month period, subscriber growth increased by nearly 2 million or 20 percent. (Source: Information and Interactive Services Report and Jupiter Communications). All U.S. consumer online services provide their users with access to the Internet and, as a result, represent the largest Internet access providers in the United States.

Complementing the commercial online services is the Internet, the worldwide network that connects worldwide over nine million host computers and anywhere from 15 to 30 million users. In the last three years, the Internet has totally revolutionized network computing and established standards for online services that only a few years ago seemed impossible. The Internet has made it possible for people anywhere in the world to send electronic mail instantly and to connect to hundreds of thousands of World Wide Web sites offered by businesses, educational institutions, governments and even other people. The Internet has literally transformed the way people and organizations communicate, share information, and conduct business. Our planet has seen nothing like this new medium ever before. We truly live in exciting times.

While the Internet and online services capture most of the headlines, there are, however, other interactive platforms that are being used every day by consumers, and even more are in development. These platforms provide different services, geared towards different consumers, than online services currently provide.

For example, the plain old telephone is present in over 93 percent of all U.S. households. In addition to normal voice communications, the telephone is now an effective interactive audio device. Based on ISA survey research (Interactive Telephone Council Pay-Per-Call Industry Data Survey, March 1996), more than 159 million calls were made in 1994 to 36,000 different interactive voice-based programs, resulting in nearly \$600 million in annual sales. Based on first quarter 1995 ISA survey results, it is estimated that there will be over 165 million calls made to 50,000 different interactive voice-based programs, resulting in over \$700 million in annual sales. It is clear that millions of Americans are currently using a wide range of voice-based information services.

In addition to these two widely used interactive platforms, the industry is busily investing in additional platforms to appeal to an even broader consumer market.

Today, major telecommunications companies such as Bell Atlantic, Time Warner, TCI and GTE are testing a wide range of interactive television products and services in an effort to eventually offer interactive full motion video in every home in America. While recent press reports have noted the retrenchment in this platform by many of the companies involved with its development, these public reports are no different than the early coverage of online efforts a decade ago. Despite its relatively short history, the experience of telecommunications and

computer technology over the past decade ensures that broadband interactive television is inevitable. Pinpointing exactly when this technology will be implemented on a broad scale is another matter.

Another important development in interactive platforms is the screen telephone. Major companies like Citibank, BellSouth, Philips, and Northern Telecom are introducing screen telephones to consumers for banking, electronic phone directories, e-mail and other interactive applications. These devices are regular telephones with small screens that display visual information. Screen telephones are priced under \$500, incorporate computer technology and are as easy to use as a telephone. Efforts are also currently underway to make these low cost devices Internet-compatible. It is estimated that there are approximately 250,000 such devices in use today, with future years promising steady growth in American homes (For more information, see *The New York Times*, June 3, 1996, Sec. D, p. 5; and *Business Week*, June 24, 1996, p. 103).

The screen telephone is aimed at those consumers who would prefer not to deal with the intricacies of a personal computer, yet still wish to benefit from interactive services or the Information Superhighway. It is estimated that in 1995, there were 21.4 million households with modem-equipped computers, and 9.6 million of them used online and Internet services. It is also predicted that by the year 2000, there will be 48 million U.S. households with modem-equipped computers and 35 million households online (Source: Jupiter Communications).

Another interesting statistic for the committee to consider is that the average user of the Internet and online services is a white male in his early thirties who makes \$59,000 per year and speaks English as his native language. In addition, female online users make up only 31.5 percent of the online population—a figure which has seen a steady increase in the last few years. Clearly, there is room for other forms of interactivity to meet the information and other personal needs of the American consumer.

The Benefits to Americans

The ability to access and successfully use a variety of information and other interactive services will increase the productivity, knowledge and personal enjoyment of Americans. For example, online services currently enable millions of people to communicate with each other and to access news, weather, sports, financial reports and government information through the touch of a keyboard or keypad.

One of the many benefits of interactive services is that they break the boundaries of sex, age, race or religion and that they bring people separated by geography together to share common interests. For example, many current online services offer forums or clubs through which people of similar interests exchange information, participate in discussions through public messages, or chat and conference with each other online. Online forums exist, for example, for people interested in specific types of computers, programming, and software. Forums also exist to help people address specific personal needs. A forum for senior citizens is one example, as are forums for people dealing with alcoholism, cancer and specific disabilities.

Another consumer benefit of interactive services is personalization. During the past decade, the business of mass media has been increasingly supplemented by the business of targeted media. From the perspective of interactive media, people are now empowered to obtain information or services that meet their personal or business needs.

Such empowerment means that we will be able to fine-tune our information and entertainment profiles, so that the deluge of information—or so-called "junk mail," for that matter—instead is replaced with manageable and welcomed nuggets of information, announcements, and yes, perhaps some promotions as well.

There are additional facets to this empowerment. Tools provided by interactive services can act as an extension of the person, compensating for differing abilities related to, for example, age or physical health. Electronic grocery shopping can be both a convenience to many and a lifeline to the homebound who seek to remain independent. Communities, too, will experience increasing social and political empowerment through electronic communication, forums, information

sharing and collaborative planning. As services evolve to integrate multimedia presentation, applications tailored to those of us with hearing, speech, sight, mobility or other challenges will evolve as well.

As with any new medium, however, the true benefits are best discovered by the users that employ the technology in a unique fashion previously unconsidered by the service providers. In turn, for their full benefits to be realized, interactive services must become widely available to meet the differing needs of American consumers.

PUBLIC ACCESS IS MORE THAN ELECTRONIC INFORMATION

Today's hearing is entitled, "Public Access to Government Information in the 21st Century." Mr. Chairman, I would suggest it might be more appropriate to investigate public access to government services in the 21st century. As I earlier explained in my testimony, the capabilities of today's technology allows more than mere electronic information to be made available to American consumers, but also instant communications and convenient transactions. There is no reason to believe that the federal government could not provide this broad array of services to American citizens.

For example, while many federal agencies have a web site on the Internet to provide information about their agency, other applications could include a listing of e-mail addresses of major departments or programs to which people could submit questions about those programs; online citizen forums on ways to improve federal programs; downloadable versions of federal forms; camp site reservations at national parks; or online requests to testify at an agency's public hearing. Every day the federal government interacts with millions of Americans by postal mail, in person, or over the telephone. There is no reason why many of these same interactions cannot be conducted interactively in a way that, in most instances, would be more convenient and timely than current traditional methods allow.

Furthermore, there is no reason to believe that Members of Congress could not make use of interactive media to improve their communications and information exchange with their constituents as well. In fact, it is heartening to see the recently formed Internet Caucus, organized by Representative Rick White (R-WA), that requires caucus members to launch their own World Wide Web site. The ISA welcomes this development in Congress and has agreed to support the Caucus and its members in developing their sites.

PUBLIC ACCESS IS MORE THAN JUST THE NET

As my testimony has shown, the incredible explosion of online and Internet services translates into only an approximate one-third of American households making use of online and Internet services by the turn of the century. In the following panel, you will be hearing from the chairman of the National Commission on Libraries and Information Sciences (NCLIS). I expect that she will inform the committee on how libraries can play an important role in connecting Americans to the Information Superhighway. To that end, the ISA is pleased that the NCLIS will be holding a public hearing to explore such access issues at the ISA's Annual Conference and Expo in San Diego on July 22. The ISA and its members are looking forward to hearing the testimony as well as participating in this important public meeting.

While our nation's public libraries can undoubtedly provide an important solution to broadening American access to new interactive services, the U.S. Government should also look to other interactive platforms besides the Internet to inform, communicate and conduct business with the American consumer at their home or work. Platforms like the telephone, screen telephone and, eventually, the television will be important interactive platforms for tens of millions of American homes, homes in which many Americans may be resistant to using a personal computer.

CENTRALIZED/DECENTRALIZED U.S. APPROACH TO PROVIDING INTERACTIVE SERVICES

Finally, I would like this subcommittee to consider the suggestion that the U.S. Government form a central office that would coordinate its efforts in providing useful interactive services to all Americans. Such a centralized authority could help advise the various agencies and branches of government on the technologies

and applications that are available to interact with the American population. Each agency would be responsible for developing and maintaining its own interactive services, but would do so within the guidelines established by this government-wide office.

Like the Government Printing Office, a central interactive services office would help each agency deploy a standardized set of interactive tools for governmental use so that each agency would not have to build a series of such services from the ground up, an initiative that would save both time and taxpayers' money. Unlike the Government Printing Office, however, each agency would do its own work and, thus, avoid having a larger organization control all the interactive services that are being developed and maintained.

Furthermore, this office could provide central navigation and search capabilities for all U.S. government interactive services. For example, the U.S. government could have a Web site that would guide the American consumer to the specific agency that is responsible for an area of concern to the citizen as well as direct consumers to the Web site of their congressional representative without prior knowledge of the site's URL-Web site address-to obtain the information they need or send an electronic message to the representative. The Canadian federal government has such a web site (see Appendix B), and there is no reason why the U.S. government cannot launch such a site as well. Given the complexity of the U.S. government, such a service could be instrumental, both to the citizens and federal employees, in quickly guiding American citizens to the information or government services that they want or need. Similar navigation features could be explored for an interactive telephone service as well.

With proper federal coordination, the effective use of interactive media and applications could be used to service the needs of more Americans with fewer employees. Furthermore, the use of interactive technology, while not for all Americans, would ensure the more traditional federal information and communications sources were available to those who truly needed them the most. Even if only 20 percent of the American population were making use of interactive media to obtain governmental information, the burden on the government-employed human workforce that is required to respond to a telephone call or written

request could be decreased by that same 20 percent.

In conclusion, consumer interactive platforms and applications can help bring Americans closer to their government and, at the same time, help our government better serve its citizens in a more economical way.

On behalf of our members, I want to thank you Mr. Chairman for asking me to testify today, and I hope that these hearings mark the beginning of the federal government's implementation of interactive technologies to better inform, communicate with and conduct business with our nation's citizens. I welcome any questions you may have about my testimony.

The CHAIRMAN. We thank you very much, Mr. Smith, and we thank all members of this panel. This has been a very informative panel, collectively and individually, and I have tried to afford you the opportunity, the maximum amount of leeway, and you have availed yourself of those opportunities quite well. But it is another building block. No matter how enticing some of these other avenues are, this committee-I want to contain it to the jurisdiction that we have, and that, of course, is the Title 44 jurisdiction. But as I say, this has been a very informative and helpful situation. I thank each of you for taking the time to come and inform the Senate and the public as a whole.

The CHAIRMAN. Now, Mrs. Simon, please come forward, as well as Dr. Bellardo, and I apologize for the time constraints. We will include your testimony in the record completely, both witnesses, and the committee may avail itself to call you back at

a later date, given you are right here in the Nation's capital and part of the institution.

Now, this is unusual. This is a first for me in my years in the Senate, and I want to acquaint those participating in this hearing, either present in the hearing room or viewing it from afar, with a little of the biographical accomplishments, many of the accomplishments of our distinguished witnesses today.

Mrs. Simon serves as Chairperson for the U.S. National Commission on Libraries and Information Science. The National Commission was established in 1970 as an independent executive branch agency to advise the President and the Congress on national and international policies and plans related to libraries and information services. Your organization has sponsored programs and studies on implementing conference recommendations related to libraries and information network technologies. Mrs. Simon received her J.D. from the Northwestern University Law School in Chicago. She is also a member of the American Library Association.

Would you amplify a little bit if I have overlooked anything?

TESTIMONY OF HON. JEANNE HURLEY SIMON, CHAIR-PERSON, U.S. NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE, WASHINGTON, DC

Mrs. SIMON. You covered it very well, Mr. Chairman. I might add that I have been interested in libraries since I worked in the law library at Northwestern Law School to help pay for my tuition.

The CHAIRMAN. I did the same thing. I worked at the University of Virginia law library. What was your salary, by the way?

[Laughter.]

The CHAIRMAN. Mine was \$1 an hour.

Mrs. SIMON. It just whacked off part of the tuition. That is all. It took care of it.

The CHAIRMAN. That is interesting. But I profited by it.

Mrs. SIMON. I did, too.

The CHAIRMAN. I remember the librarian. What a beautiful human being. Her name was Ms. Farmer, a very proper spinster lady, but what industry she applied, and commitment. The library was the love of her life, and we all respected her and absolutely worshipped her, and she was a very strict disciplinarian. You can imagine it. Students were not allowed to put their feet on the desks as they were doing there perusal of the books in the library.

Mrs. SIMON. I am glad we share that background, Senator.

The CHAIRMAN. Thank you.

Mrs. SIMON. Paul and I also assisted in organizing a voluntary library in a small community where we lived when we were first married. Imagine moving to a town, from Winnetka, Illinois, to move to a town of 1,200 people that had no library. That set me

in motion for pulling together a library.

The CHAIRMAN. And I think the record should reflect, of course, you are the wife of Senator Paul Simon, the senior Senator from the great State of Illinois.

Mrs. SIMON. Thank you.

The CHAIRMAN. Thank you.

Mrs. SIMON. Well, I am delighted to be here this morning, and I appreciate the opportunity. I know the constraints that you are under. And I talk very fast, but I will try—
The CHAIRMAN. No, no. I won't rush you. I am sure we are

going to have the time for both your presentations.

Mrs. SIMON. All right. You said my written statement would be admitted to the record.

The CHAIRMAN. Yes, of course.

Mrs. SIMON. Thank you.

Yesterday I was at the hearing, and I heard all the wonderful quotes from Jefferson and Madison. I heard you this morning. And I have a quote from Thomas Jefferson that even has the word "depository" in it, and I think it is quite a guide for those of us who are concerned about public information. Let me quote from this honorable Virginian who wrote in 1820, he said, "I know of no safe depository of the ultimate powers of the society but the people themselves; and if we think them not enlightened enough to exercise their control with wholesome discretion, the remedy is not to take it from them but to inform their discretion." Again, a wonderful quotation and very appropriate.

So I am pleased to submit this statement on public access to

Government information in the 21st century on behalf of the United States National Commission on Libraries and Information Science. Because of our mission and our history, which are summarized in my written statement, the Commission appreciates this unique challenge that we have this morning, and as Senator Ford said yesterday, the challenge is to harness the technology to assure an informed public. We also appreciate the initiatives of Congress, including yesterday's and today's hearing, the mention of more hearings that you have suggested, as well as last year's legislative directives to examine the Depository Library Program and the legislative information systems. So my oral statement is distilled from the Commission's written statement on which several of our commissioners have commented and advised, and it takes into account some of yesterday's valuable testimony, including that of Superintendent of Documents Wayne Kelley and American Library Association President Betty Turock.

I want to make several points today. They are: number one, the relevance of our Commission's 1990 "Principles of Public Information"; number two, the usefulness of statistics already collected about the rapid technological changes occurring in the library community; and, number three, the need for more

information about the capacity of Federal agencies, the Government Printing Office, libraries, and the public for managing this transition to electronic information.

Now, I should point out, too, that I am not a "techie" at all. I am the lowest level of non-"techie"-ness. But, in addition, I want to emphasize two points that were made at yesterday's hearing. They are: number one, the need to build the capacity of individuals of what one of our commissioners has called the human infrastructure, specifically the ability of librarians to mediate electronic information resources; and, number two, the need for partnerships at the national level to help build capacity of content, dissemination, and use of public information for all levels, Federal, State and local, and in all formats, both paper and electronic.

Our Commission started in 1970. It was P.L. 91-345. We are an independent executive branch agency with a wonderful mission: to advise the President and the Congress on national and international policies and plans relating to libraries and information services. We conduct and have conducted over the past 25 years, surveys, studies, and analyses which appraise the adequacies and the deficiencies of current library and information services in order to provide recommendations to the Congress and the President on the need for improvement.

Fourteen Commissioners are appointed by the President and confirmed by the Senate for 5-year terms. Only five of our NCLIS members are professional librarians or information professionals. The others, like myself, are persons with special competence or interest in the needs of our society for library and information services. And the Librarian of Congress is the 15th commissioner. We are a citizens advisory body. We represent the public's interest. And with this focus, the Commission is vitally interested in ensuring that the public is guaranteed open and uninhibited access to information created, compiled, and maintained by the Federal Government.

So policy issues relating to information access have been central to us since the 1970's, starting with the Rockefeller report entitled "National Information Policy," which the Commission published and which noted, "A great number of public policy questions are being generated by advances in computer and communications technology, by shifts in the United States economy from a manufacturing to an information base, and by citizen demands for clarification of their rights to have and control information." These same information policy concerns are central to public access to Government information in the 21st century.

Over the last two decades, the Commission has studied many of the Rockefeller report's public policy questions, one result of which was our 1990 issuance of the "Principles of Public Information." It was good to hear this committee's leaders at yesterday's hearing express strong commitment to public access

to public information. We strongly agree, as the preamble to our "Principles of Public Information" states, and I quote, "Public information helps to educate our people, stimulate our progress, and solve our most complex economic, scientific, and social problems. With the coming of the Information Age and its many new technologies, however, public information has expanded so quickly that basic principles regarding its creation, use, and dissemination are in danger of being neglected or even forgotten. The National Commission, therefore, reaffirms that the information policies of the U.S. Government are based on the freedoms guaranteed by the Constitution and on the recognition of public information as a national resource to be developed and preserved in the public interest."

We have copies with us this morning of "Principles of Public Information" that are available for anyone who wishes them, and, of course, we have more in our office. The principles are also well represented in the GPO's report to Congress, which is

published today.

[The information is included as Appendix B2.]

Since the 1991 White House Conference on Libraries and Information Services, the Commission has sponsored programs and studies on implementing conference recommendations relating to libraries with information network technologies. One clear, consistent message from our activities on the roles of library and information services in the emerging national network information infrastructure is the need for reliable and current national and State statistics on the extent of libraries' use of the Internet and network services.

The preliminary results from a recent ALA survey of electronic services in academic libraries show that most university libraries provide access to Internet-based services. The sample survey results reflect a high level of academic library involvement with emerging electronic technologies and services. Libraries in 98 percent of doctoral-granting public universities report offering Internet access to electronic catalogues, as do libraries in 84 percent of doctoral-granting private universities. In addition, libraries in 83 percent of public comprehensive universities and 64 percent of private comprehensive universities report offering Internet access services. Similarly, libraries in 63 percent of liberal arts colleges report offering electronic public catalogue access.

Now, many of these academic libraries also serve the public as depositories for Government documents. On the other hand, many public libraries are in the early stages of advanced communications and information services and networks such as the Internet. Therefore, in 1994, our Commission sponsored research into the nature and extent of public libraries' involvement with the Internet and online information services. From January through March 1996, we sponsored a second

survey of public libraries in the Internet so we would have longitudinal data. The major preliminary findings are as follows: Connectivity increased rapidly, by 113 percent overall, an

Connectivity increased rapidly, by 113 percent overall, an amazing jump. Discrepancies in connectivity based on the size of population appear to have increased from 1994 to 1996, despite overall increases in public libraries' connections. Public libraries serving populations under 5,000 are much less likely to be connected to the Internet than libraries serving populations from 100,000 to 1 million. Regions differ significantly in rates of public library Internet connectivity and Internet-based service offerings. More than 60 percent of U.S. public libraries could be connected to the Internet by 1997. In small communities of 25,000 or less, the public library may provide the only means for public Internet access.

The Commission's survey of public libraries and the Internet reveals information about the ratio of public access to Internet terminals to population size. For public libraries serving communities of more than 1 million, there is one text-based Internet public access terminal available for every 15,321 users. Worse still, there is only one graphical—that is, World Wide Web—public access terminal for every 84,422 patrons in communities of over 1 million.

Overall, regardless of the size of populations served, public libraries offer one text-based Internet public service access terminal for every 20,150 users. Similarly, public libraries offer one multimedia Internet terminal for public access for every 26,525 patrons. From these results, I think it is quite clear that public libraries lack sufficient electronic service capacity for a successful transition to a more electronic depository system.

Our Commission regards this type of current statistical information about the rapid new changes, new capabilities, and discrepancies in libraries as essential to effective planning for the public's electronic access to all types of information, including Government information. The prepared statement submitted for the National Commission on Libraries and Information Science has some general predictions and considerations, and we have heard a lot this morning about that. It does not retrace all the information and proposals already gathered by this committee, others in Congress, the Government Printing Office, and other parties.

Over the past several months, our Commission has met with the Government Printing Office representatives to discuss the need for identifying costs and implications of changes associated with the transition to a more electronic Government information system. The Commission is preparing to assist the Congress and the Government Printing Office in understanding how the technological and economic developments discussed here today are affecting the public's need for information, especially Government information.

We need additional information to plan for the successful future integration of electronic Government information services. This information includes assessments of the costs and the usefulness of public access to Government information products and services. To continue to improve and expand the ways to reach the Government's customers with timely, useful information, we need to know a great deal more about a variety of matters, including the information content that the public needs and wants, the information formats the public needs and wants. We need to know about current practices and plans of Federal departments and agencies who are producing public information. Cataloguing, indexing, and locator tools to manage and access the vast amount of Government information are sorely needed. We need standards for dependability and interoperability of information systems. Capabilities and constraints of present depository libraries must be examined.

The effects of public policy developments, that is, universal service provisions in the new telecommunications law, on dissemination of information, especially in smaller rural institutions and areas, must be explored. And, finally, the shifts in the process and the costs of handling information must be examined. These are only a part of the enormous problems that we see in this transition period that the Government Printing Office is undertaking, and they do need time, they need more information. But I have appreciated the opportunity to present this information to you today, Mr. Chairman. The issues this committee is exploring have very important implications for the future of the Depository Library Program, the Congress, and, most importantly, the users—the American people. And I thank you.

[The prepared statement of Mrs. Simon follows:]

PREPARED STATEMENT OF JEANNE HURLEY SIMON, CHAIRPERSON, U.S. NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE, WASHINGTON, DC

A. Congress Initiatives

The U.S. National Commission on Libraries and Information Science (NCLIS) is pleased to submit this statement on public access to government information in the 21st century. Because of its mission and history, summarized below, NCLIS appreciates the complexity of the issues of continuing public access to information while using and encouraging technological advances. NCLIS also appreciates Congress initiatives, including this hearing and last years legislative directives to examine the depository library program and legislative information systems.

The Members of the National Commission believe that recent advances in electronic information and communications technologies can increase and improve public access to and use of government information. We appreciate the opportunity to address issues central to the success of our democracy.

B. The Role of the National Commission

The National Commission was established in 1970 (P.L. 91-345) as an independent, executive-branch agency to advise the President and the Congress on national and international policies and plans related to libraries and information

services. NCLIS conducts studies, surveys and analyses that appraise the adequacies and deficiencies of current library and information services in order to provide recommendations and advice to federal, state, local and private agencies.

Fourteen Commissioners are appointed by the President and confirmed by the Senate for 5-year terms. The Librarian of Congress is the 15th Commissioner. Only five NCLIS members are professional librarians or information professionals; the others have special competence or interest in the needs of our society for library and information services. As a citizens advisory body, NCLIS represents the publics interest and therefore wants to see that the public is guaranteed open, uninhibited access to information created, compiled and maintained by the federal government.

NČLIS is a micro agency, with an annual appropriated budget of less than \$1 million.

C. NCLIS Principles of Public Information

Policy issues related to information access have been central to NCLIS throughout its history. In the 1970's NCLIS published the Rockefeller report, "National Information Policy," which called for a coordinated national information policy. The rationale for this report was stated as follows:

A great number of public policy questions are being generated by advances in computer and communications technology, by shifts in the United States economy from a manufacturing to an information base, and by citizen demands for clarification of their rights to have and control information.

These same information policy concerns are central to public access to government information in the 21st century. Over the last two decades NCLIS has studied many of the Rockefeller reports public policy questions. One example is the series of meetings and responding to the Office of Technology Assessments 1988 report, "Informing the Nation: Federal Information Dissemination in an Electronic Age", and resulting in NCLIS 1990 issuance of the "Principles of Public Information."

In addition to information policy, the Commission has addressed the impact of information technologies on libraries and information services, the evolving roles of U.S. libraries, technical standards for a national network, and the interactions of the public and private sectors in providing information services. Since 1988 NCLIS has worked with the National Center for Education Statistics to develop improve the collection and use of statistics for academic, public, state, school and federal libraries.

The Commission's statute (P.L. 91-345) was amended in 1991 by P.L. 102-95 to include the following function in Section 5 (a)(6):

The Commission shall... promote research and development activities which will extend and improve the Nation's library and information handling capability as essential links in the national and international communications and cooperative networks.

With this clarified authority, the Commission has recently sponsored studies which form the basis for projecting library roles in an integrated, multi-dimensional, technology-intensive, dynamic information environment of the next decade.

D. Recent Research by NCLIS on Library Networking and the Internet

Since the 1991 White House Conference on Libraries and Information Services, NCLIS has sponsored programs and studies on implementing Conference recommendations relating libraries with information network technologies. The first

Domestic Council Committee on the Right of Privacy, Hon. Nelson A. Rockefeller, Chairman. "National Information Policy: Report to the President." Washington, DC: NCLIS, 1976.

Office of Technology Assessment. "Informing the Nation: Federal Information Dissemination in an Electronic Age." Washington, DC: OTA, 1988.

was a 10 March 1992 open forum to hear views of various groups on the Conference recommendations. A second open forum, 20–21 July 1992, identified and clarified concerns of the library and information services community, both as providers of information to be carried on the National Research and Education Network and as creators of network-based information resources.

One clear, consistent message from NCLIS activities on the roles of library and information services in the emerging national networked information infrastructure is the need for reliable and current national and state statistics on the extent

of libraries use of the Internet and network services.

While many libraries in colleges, universities and research institutes use the Internet/NII/GII via campus links, many public libraries are in the early stages with advanced communications and information services and networks such as the Internet. Current and longitudinal statistics on public libraries use of the Internet and analysis of their potential as network service providers for the public are required to plan effectively to deploy advanced communications and information infrastructure.

In 1994 NCLIS sponsored research into the nature and extent of public libraries involvement with the Internet and online information services. The June 1994 report¹ has been widely distributed and cited and is a basis for bills to update the Library Services and Construction Act. The "Public Libraries and the Internet" report was also the foundation for two NCLIS briefings on libraries and the information superhighway, 21–22 September 1994. In the first briefing 15 state library agencies reported on statewide projects; the second focused on federal networking activities and initiatives.

A 1995 Commission study² was the basis for the work of the National Information Infrastructure Advisory Councils MegaProject II on the costs of involving

schools, libraries and community centers in the NII.3

From January to March 1996 NCLIS sponsored a second survey of public libraries and the Internet. Preliminary findings are summarized as follows:

• Connectivity increased rapidly, by 113 percent overall (from 20.9

percent to 44.6 percent) since 1994.

- Discrepancies in connectivity based on size of population appear to have increased from 1994 to 1996, despite overall increases in public libraries connections.
- Public libraries serving populations under 5,000 are much (58.6 percent) less likely to be connected to the Internet than libraries serving populations from 100,000 to 1 million+.

• Regions differ significantly in rates of public library-Internet connec-

tivity and Internet-based service offerings.

- 39.6 percent of the 55.4 percent of public libraries without Internet connections indicate no plans for connecting to the Internet in the next 12 months.
- For public libraries not connected in 1996, those serving smaller populations are more likely not to be planning Internet connection in the next 12 months.
- More than 60 percent of U.S. public libraries could be connected to the Internet by 1997.
- Discrepancies among public libraries connections and uses of the Internet relate to
 - the extent of connectivity
 - the type of connectivity

U.S. National Commission on Libraries and Information Science. "Public Libraries and the Internet: Study Results, Policy Issues, and Recommendations." Washington, DC, June 1994.

² U.S. National Commission on Libraries and Information Science. "Internet Costs and Cost Models for Public Libraries." Washington, DC, June 1995.

³ U.S. Advisory Council on the National Information Infrastructure. "Kickstart Initiative: Connecting America's Communities to the Information Superhighway." Washington, DC, Jan. 1996, pp. 96-98.

- connectivity costs, and

- the provision of public access to the Internet.

· In smaller communities of 25,000 or less, the public library may

provide the only means for the public Internet access.

More detailed findings from this study are available on the Commissions World Wide Web site. NCLIS regards this type of current statistical information about the rapid changes, new capabilities and discrepancies in libraries as essential to effective planning for the publics electronic access to all types of information, including government information. The Commission therefore expects to continue to sponsor such research and to encourage others to extend and expand their work as well, with the aim of having up-to-date, reliable statistics on all types of libraries at all times.

E. Forecasts, Computer Technology

As stated above, the Members of the National Commission believe that advances in electronic information and communications technologies can increase

and improve public access to and use of government information.

We also see a world where printed information and digital information co-exist for a long time to come, in libraries generally and with the federal government as well. The proportions will shift, and governments and libraries at all levels are getting ready to deal with the shifts, as shown in the above projection that by next year more than 60 percent of the nation's public libraries could be connected to the Internet.

A general projection is that the technological advances of the last 5 to 10 years will not just continue but could multiply in the coming decade. Any resulting structure, however, is difficult to forecast, as the National Research Councils report, "The Unpredictable Certainty", pointed out: "...the search for a holy grail of information infrastructure does not lead anywhere, but everywhere." The report also declared that the nations information infrastructure "...exists today but is and will always be in a state of flux." 3

F. Forecasts, User Demographics

User demographics could lead everywhere as well. The end user of government information could be considered everybody in the country, especially if a more inclusive concept of government information is employed, in which we also include the varied uses students can make of government information.

Regardless of the number and variety of users, they are likely in the coming

years to share some characteristics leading to the following:

Customization or personalization of information services, information packages, information products;

Expectation that information desired is available quickly and relatively easily;

 Increasing association of the value of the information with the timeliness of the information;

Instant, seamless mobility and transferability of information packages or products from one site to another electronically.

G. Expanding the Concept of Government Information

The above statements on technology and users relate to the general information infrastructure. However, dynamically those statements apply equally to the specific topic of federal government information. Amid these hydra-headed shifts generally for technology and users, libraries shift too, and obviously the Federal

Jbid., p. 4.

http://www.nclis.gov —under Information Policy—National Information Infrastructure—"Reply Comments to the Federal Communications Commission in the Matter of the Federal-State Joint Board on Universal Service, May 7, 1996."

National Research Council. "The Unpredictable Certainty: Information Infrastructure through 2000." Wshington, DC: National Academy Press, 1996, p. 32.

Depository Library Program does as well. There appears to be no end to the changing for any component. Even using the term "transition" can be misleading if it implies a fixed, time-limited passage from one thing to another.

Continuous change can be brought about by technology and also by deliberate expansion of a system or program. For instance, regarding expansion, what if public school and community college libraries were included in a new world of depository libraries? Regarding another type of expansion, how are the information needs of distance learners to be met, including those of enrollees of a virtual university like western states are considering?

As more schools are wired and more students—in and out of physical class-rooms—learn with the aid of computers, classrooms and libraries, media centers and learning resource centers will become more and more important as distributors of electronic information—including government information. Students may not know that the information they are getting online from the Commission on Civil Rights or the National Oceanographic and Atmospheric Administration or the Council on Disability or the National Science Foundation is government information. However, that does not change the fact that the government-produced information needs to be as available to students as it is to the business person, the demographer, the researcher, the physician, the political scientist.

We need to think more inclusively about users or potential users of government information. We also need to adopt a more inclusive way of thinking of government information. The venerable depository collections are primarily government publications. However, government information is much more than just publications. Government information can also be considered educational information. For instance, last year Sen. Warner and Sen. Ford announced the Senate's Web site as ". . . an improved opportunity to provide educational information to the public." NCLIS has a new Web site also and we view ours as an educational tool too.

H. Criteria for Government Information

The broadest understanding of government information and the widest access to government information are not, in and of themselves, the goal. The governments information must, most of all, be useful, and to be useful it must also be reliable and applicable. Government information must be targeted and focused and perhaps interpreted and re-packaged for the user and potential user.

The factor of reliability must be short-term—that is, is the information accurate, authentic and authorized—and long-term—that is, can the information be preserved so it will be available 20 or 50 years from now and will the information that far in the future have been preserved accurately?

Accessibility, reliability and usability are especially challenging when the vehicles for delivering the information are changing so rapidly.

I. Next Steps

This statement submitted for the National Commission on Libraries and Information Science has some general predictions and considerations. This statement does not retrace all the information and proposals already gathered by this Committee, others in Congress, the Government Printing Office and other parties. NCLIS does, however, stand ready to assist the Congress, the GPO and others in understanding how the technological and economic developments discussed here today are affecting the public's need for information, especially government information.

To continue to improve and expand the ways to reach the governments customers with timely, useful information, we need to know more about a variety of matters, including:

- · Information content that the public needs and wants
- · Information formats that the public needs and wants

¹ Congressional Record, Oct. 20, 1995, p. S15372.

· Current practices and plans of federal departments and agencies for producing public information

· Cataloging, indexing and locator tools to manage and access the vast amount of government information

· Standards for dependability and interoperability of information and systems

Capabilities and constraints of present depository libraries

· Effects of public policy developments (e.g., universal service provisions of new telecommunications law) on dissemination of information, especially in smaller, rural institutions and areas

· Shifts in the process and cost of handling information.

Frequently a transition to a new way of doing something increases costs during the transition when dual systems—the new and the old—are run to make sure that mission-essential work continues to get done while any problems in the new system are identified and removed. Application of new technology may, of course, eventually lead to reduced costs or may, at historically similar cost levels, bring out significant qualitative improvement in use of information developed by the government. A better informed citizenry as well as a better performing economy can result from improved employment of government information.

In fulfilling its role, Congress is concerned about fiscal responsibility and also about maintaining and improving the national health and wealth. Thank you for the opportunity to participate in this important hearing about the health and

wealth that information can foster.

The CHAIRMAN. Will you have the time to continue to follow the hearings of this committee and, therefore, give us such additional advice as you may wish to in the future? Mrs. SIMON. We would be happy to.

The CHAIRMAN. Because I think the work of your organization is directly parallel to what we are trying to achieve here.

I would want to ask one question. Your written statement

suggests that recent technological advances will improve access to and use of Government information, and your survey indicates continued growth in library capability. You also suggest expansion in the concept of Government information and a reminder that transition is not a one-time thing in this

How does the National Commission envision its role in working with the Government, the private sector, the library community, and users to ensure Government information is accessible and useful?

Mrs. SIMON. I think we start off by saying we represent the users, not librarians, not the service providers. We represent the people. We have been successfully studying the problems for over 25 years now. I think we have the background, the know-how, and the capability to examine these problems and to continue to do that on a timely basis by surveys, studies, focus groups or whatever means we can gather together to make sure that the public has this access to information.

The CHAIRMAN. Does your Commission have information on what the U.S. public libraries are doing for librarian training

today in anticipation of the future technology advances?

Mrs. SIMON. We don't have enough information on it. We would like to know more. This is very, very crucial. For all the Internet capabilities that we have, we need somebody, namely, a librarian, a trained librarian, to be the navigator to help the people who want to use the Internet and access information. It is a very important problem.

The CHAIRMAN. Let me venture you out on this one. Given your background and knowledge, how would you describe the configuration of the typical American library in the future here, in the part 10 years?

in the next 10 years?

Mrs. SIMON. Well, it does have walls.

The CHAIRMAN. And a roof.

Mrs. SIMON. It has a roof. It has shelves. It has books. It has people gathering together. A library is a meeting place for people. I can never disabuse myself of the fact that libraries are a community asset, a gathering place. And, yes, we will have the electronic information, but we will also have the kiddies' story hour in the basement. And it may look like the San Francisco library that we will be visiting next month as a Commission. Or it may look like the Troy Library of 1960 that took over an old funeral home. The point is there will be a building. There will be books.

The CHAIRMAN. But there will be the inclusion, hopefully, of a considerable amount of electronic equipment.

Mrs. SIMON. You bet.

The CHAIRMAN. I thank you very much.

Doctor, I appreciate your willingness to come forward today and accepting the fact that I have to depart at this point in time because of a problem on the floor. And Senator Ford is attending a leadership meeting of his caucus, and, therefore, it is imperative, his absence this morning. But that is the way the life of the Senate functions, and, Mrs. Simon, you are more than thoroughly familiar with this.

Mrs. SIMON. I sure am, and I love it.

The CHAIRMAN. Your departure is not one that I anticipate with any joy, because you and your husband have been an integral part of all Senate life. The hallmark of your husband, and indeed, I am sure it is an outgrowth of your partnership with him, is he is a gentleman first and foremost at all times.

Mrs. SIMON. I will be sure and tell him that this evening.

The CHAIRMAN. Thank you.

[The prepared statement of Mr. Bellardo follows:]

PREPARED STATEMENT OF DR. LEWIS BELLARDO, DEPUTY ARCHIVIST OF THE UNITED STATES, NATIONAL ARCHIVES AND RECORDS ADMINISTRATION, WASHINGTON, DC

Good morning. I wish to thank Chairman Warner, Senator Ford, and the Committee on Rules and Administration for this opportunity to appear before you and present testimony on the future of public access to government information in the 21st Century. With your permission, Mr. Chairman, I wish to submit my written testimony for the record and summarize some primary points at this time.

I would like to take just a moment to give you some information about my background because it directly relates to my understanding of the issue before

the Committee today. I have spent the majority of my career in government, but not always at the Federal level. Before coming to the National Archives and Records Administration (NARA), I was the State Archivist of Kentucky for 6 years where I was responsible for the appraisal, preservation, and access to the records of state and local government with continuing value. As I am sure Senator Ford knows, in Kentucky, the archives program is administered jointly with the state library that is part of the Federal Depository Library Program (FDLP). I worked closely with the State Librarian in managing the collection of government documents and became well acquainted with the issues surrounding access to Federal, state, and local publications.

My first position at NARA was as the Director of the Center for Legislative Archives. The Center has responsibility for the Government Printing Office's (GPO) publications transferred to NARA as evidence of the publication and dissemination functions of GPO's FDLP. As director of the Center I also had the privilege of being the Archivist's custodian of the records of the United States Senate. Subsequently, I was the director of NARA's Preservation Policy and Services Division in which I was responsible for maintaining the physical preservation of records in NARA's custody. As you know, I am currently Deputy

NARA's Mission

Archivist of the United States.

During his first months as Archivist of the United States, Governor John Carlin worked with his leadership team to bring clarity to the mission of the National Archives and Records Administration. That mission is clearly relevant to our discussion today. To quote from our new vision and mission statement:

The National Archives is not a dusty hoard of ancient history. It is a public trust on which our democracy depends. It enables people to inspect for themselves the record of what government has done. It enables officials and agencies to review their actions, and helps citizens hold them accountable. It ensures continuing access to essential evidence that documents the rights of American citizens, the actions of Federal officials, and the national experience.

By the documentation of citizens' rights we mean "providing access to evidence that enables them to establish their identities, protect their rights, and claim their entitlements." By the documentation of official actions we mean "providing access to evidence that enables Federal officials to explain past decisions, to inform future policy, and to be accountable for consequences." By the documentation of the national experience, we mean "providing access to evidence that enables a wide range of researchers to assess the effects of Federal actions."

Accordingly, we have defined our fundamental mission as this: "to ensure, for the citizen and the public servant, for the President and the Congress and the Courts, ready access to essential evidence," of the kind I've just described.

These general statements of principle set directions. We are currently hard at work on a strategic plan that will turn these principles into a blueprint with priorities for the allocation of our human and financial resources.

The concerns of the National Archives as regards the Federal Depository Library Program focus on two major areas: preservation and access. Let me set those concerns in the context of the law, the portion of Title 44 that directs the operation of the National Archives.

Current Law

By law, the National Archives and Records Administration is responsible for preserving and providing access to records of the United States government that have sufficient value to warrant their continued preservation—what NARA calls essential evidence. Title 44 is clear that NARA is responsible for government records—not government information, not data, not documents, but records. Records are defined in Title 44 as:

. . . all books, papers, maps, photographs, machine-readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public busi-

ness and preserved or appropriate for preservation by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities or the Government

The definition of record focuses not on the book or correspondence or data file for their own sake, but as evidence of the activity of the Federal government that they document.

Preservation

NARA has appraised as having continuing value the publications of the Government Printing Office that are part of the Federal Depository Library Program. These records have been appraised as having continuing value because they provide essential evidence of two significant functions of GPO: publication and dissemination. The fact that information technology is changing the methods of publication and distribution does not change the fact that NARA is still responsible for ensuring the long-term preservation of the records that result from these major activities.

Therefore, our first concern is that no change in Title 44 should express or imply that simply because we are now going to an electronic format, that GPO or any agency other than the National Archives would have the function of ensuring the preservation, in perpetuity, of the record copy of the publications of GPO. NARA is required to do that, and anyone else doing it would be an unnecessary and

costly duplication of effort.

The record set of this documentation should come to the National Archives according to the records schedules in the same timely manner as it currently does, and not, as an earlier draft of the GPO plan implied, only after reduced usage made its transfer appropriate. The relatively fragile nature of electronic media, which I'd be glad to discuss further with the Committee, necessitates early transfer and preservation.

But, what will the long-term access to these records be to the public? What will the long-term access to these records be to the Depository Library Program?

Access

NARA's mission statement also includes the phrase "ready access to essential evidence." In an electronic environment, we are faced with a myriad of choices from which to provide access—on-line, near-line, off-line, etc. The National Archives is not in a position today to provide on-line access to the non-current records of the depository library program, and any assumption to the contrary is incorrect. We must be very careful as we identify those records—whose current usage does not warrant continued on-line access through the FDLP—not to transfer a reference burden that the National Archives can not currently handle. The resources that would be required to guarantee permanent on-line access to all GPO publications is out of the question, regardless of which agency would have responsibility. We cannot afford it. Nor, if truth be told, would the anticipated level of use warrant such an expenditure.

In closing, on behalf of John Carlin, I wish to offer our congratulations to the Committee, to Chairman Warner and Senator Ford for taking up this important

area. We pledge our full cooperation and assistance as you progress.

I will be happy to take your questions.

The CHAIRMAN. I would point out that we included in the record of yesterday's hearing a paper written by the Congressional Research Service Historian Dr. Harold Relyea.

[The report is included as Appendix A6.]

We thank all the witnesses for their patience and cooperation.

Thank you very much. The hearing is adjourned.

[Whereupon, at 10:56 a.m., the committee was adjourned.

PUBLIC ACCESS TO GOVERNMENT INFORMATION IN THE 21st CENTURY

TUESDAY, JULY 16, 1996

U.S. SENATE,
COMMITTEE ON RULES AND ADMINISTRATION,
Washington, DC.

The committee met, pursuant to notice, at 9:32 a.m., in Room SR-301, Russell Senate Office Building, Hon. John Warner, chairman of the committee, presiding.

Present: Senators Warner and Ford.

Staff Present: Grayson Winterling, Staff Director; Edward H. Edens IV, Special Assistant to the Chairman; Bruce E. Kasold, Chief Counsel; Jennifer Joy Wilson, Special Adviser to the Chairman; Virginia C. Sandahl, Chief Clerk; Mary Louise Faunce, Administrative Assistant to the Staff Director; Kennie L. Gill, Democratic Staff Director and Chief Counsel; and John L. Sousa, Democratic General Counsel.

The CHAIRMAN. Good morning, ladies and gentleman.

This is our third in a series of hearings on this subject, and Senator Ford and I are confronted with the fact that the Senate is going to have a vote proceeding at about 10 o'clock. We are anxious to get as much of our hearing done as possible, so the distinguish ranking member and myself will waive our opening statements and proceed directly to the witnesses, asking each to hopefully contain your oral presentation to about 5 minutes, and the record will include the entire statements of each witness.

Senator Ford?

Senator FORD. I pass.

The CHAIRMAN. Fine. Thank you.

[The prepared statement of Senator Warner follows:]

Prepared Statement of Hon. John Warner, Chairman, a U.S. Senator from the State of Virginia

Welcome to the third in our series of hearings on Title 44, entitled, "Public Access to Government Information in the 21st Century".

In our first hearing on June 18th, we heard testimony on the Federal Depository Library Program—a program of nearly 1400 libraries, designed over 100 years ago to ensure all Americans had reasonable access to public federal information regardless of location or income level.

We also heard significant concerns that a good deal of government information is not being made available to the public through these libraries, and we heard

about plans to produce more government information electronically over the next 5 to 7 years.

Our second hearing, held on June 19, focused on the future trends in communications technology and the ability of the general public to use the rapidly expanding digital information network.

Today, approximately 16 million Americans are active Web users, with a dra-

matic increase expected in the 21st century.

Today's hearings will focus on Title 44 compliance, printing, procurement, and

"copyright-like" restrictions.

There are some who believe that Title 44 needs significant modification, particularly regarding the requirement that virtually all government printing—legislative, executive, and judicial—be obtained through GPO.

Today's witnesses will discuss the costs and benefits associated with centralized versus decentralized procurement of government information, as well as the costs and benefits associated with in-house versus private sector printing or electronic publication.

Witnesses will also testify about the use of "copyright-like" restrictions on government information-restrictions which present a potential conflict with reasonable and equitable public access envisioned in Title 44.

Next week, on July 24th, we will have our fourth hearing on Title 44, during which we will receive testimony from witnesses representing all three branches

of the federal government.

As we proceed through this series of hearings, an overriding concern remains

the challenge that was highlighted in our first two hearings-

How do we adjust for and encourage the use of continually changing new technologies-technologies which have the potential for unparalleled information creation and dissemination—and still ensure that all Americans have reasonable and equitable access to that information in a usable format?

Such access is inherent to a strong democracy, and one of our goals throughout these hearings will be to find a way to better use technologocal advances without

creating an information caste system of "haves" and "have nots".

I close with a reminder from one of our forefathers most interested in keeping

America's citizens informed.

Thomas Jefferson stated, "If a nation expects to be ignorant and free, . . . it expects what never was and never will be.

With that as a constant reminder, I welcome all witnesses this morning. I ask you to keep your summary statements to no more than 5 minutes; your full statements will be included in the record.

[The prepared statement of Senator Ford follows:]

PREPARED STATEMENT OF HON. WENDELL H. FORD, RANKING MEMBER, A U.S. SENATOR FROM THE STATE OF KENTUCKY

Mr. Chairman, I know that we are on a tight time schedule this morning. However, I want to compliment you on the topic of this third hearing on the GPO and public access to government information in the 21st century—that of the private sector perspective.

While I firmly believe in the public's right to no-fee government information, I recognize that the private sector printing and information services industries play a vital role in both increasing the availability of government information as well as enhancing the usefulness of that information to the public.

The testimony of our witnesses today is important in our review of GPO and our responsibility to ensure that the American taxpayer who pays to produce government information has access to that information on a no-fee basis.

The CHAIRMAN. Let's just start left to right. Mr. Massant?

TESTIMONY OF ERIC MASSANT, DIRECTOR, GOVERN-MENT AND INDUSTRY AFFAIRS, LEXIS-NEXIS AND CON-GRESSIONAL INFORMATION SERVICE, INC., BETHESDA, MD, ON BEHALF OF THE INFORMATION INDUSTRY AS-SOCIATION

Mr. MASSANT. Good morning, Mr. Chairman and Senator Ford. My name is Eric Massant. I am director of Government and Industry Affairs at LEXIS-NEXIS and Congressional Information Service and Chair of the Government Information Policy Committee at the Information Industry Association. Thank you for inviting me to testify on behalf of the IIA on issues related to public access to Government information in the 21st century.

Since the early 1970's, LEXIS-NEXIS and CIS have been providing access to Federal and State information from all branches of Government in a variety of formats—print, microfiche, and electronic—with a variety of editorial and

technological enhancements.

In 1995, Congress reauthorized the Paperwork Reduction Act. This law established information dissemination policies for the executive branch agencies. The recently released GPO study on the transition to a more electronic Federal Depository Library Program makes frequent references to the provisions of the PRA, but there is no recommendation in the report that reform of Title 44 should include application of the PRA's information dissemination provisions to the legislative branch. Indeed, Mr. Chairman, many of the issues about which you have expressed particular interest are addressed in the PRA. That law prohibits copyright-like restrictions and exclusive distribution agreements that interfere with access and prohibits fees that exceed the cost of dissemination. Additionally, the law mandates that agencies assure the public equitable and timely access to underlying electronic data, and they encourage a diversity of public and private sources of information based on public

Unfortunately, some agencies have been violating these conditions and have been setting up programs which hamper open access by the public. The IIA urges Congress' active participation in requiring adherence to the PRA dissemination principles by the executive branch agencies. We also strongly recommend that any proposal forwarded by the committee regarding Title 44 require that the legislative branch agencies abide by the dissemination principles of the PRA.

Regarding the GPO study, the remainder of my comments deal with mainly with Goal 3 of the study, which suggests that GPO provide Government information products in formats appropriate to the needs of users and that intended usage. That section says that agencies create and disseminate information that meets their own needs and those of their specific

constituencies. It then suggests that this is insufficient, so GPO should convert or repackage agency-produced information to assure broad public access. The study further proposes that GPO should expand its role from that of printer, duplicator, and disseminator to that of publisher of Government information. This is a serious expansion of GPO functions that is not warranted by technological changes. We believe that the suggestion that GPO should become a publisher of Government information, trying to meet the needs of all users, is seriously flawed.

First, decisions about information formats, packaging, and database design, which are essentially editorial decisions made by publishers, are properly the responsibility of the originating agencies and should be based on the statutory authority and legitimate needs of those agencies and the users of that data.

Second, post-publication manipulation of Government information after each agency has determined which version of publications should be distributed as official Government documents jeopardizes the integrity of that information due to potential negligence or political purpose. The idea of a central publishing agency with this authority is truly frightening.

Third, the costs associated with trying to meet the

information needs of most users would be very expensive.

Fourth, the attempt to develop standard formats is better undertaken by the industry, which continues to deal with it with steady progress. The potential for waste if GPO chooses wrongly

is great.

Finally, an aggressive expansion of GPO functions will discourage private sector investment and innovation at the very time that rapid technological developments and lower costs are offering opportunities for a boom in new private sector products based on Government information. I would emphasize that IIA's concerns are not only with the potential economic harm to the information industry and its workers, but also with maintaining a proper balance between the roles of the private sector and the Government in ensuring the widest possible access to Government information. When addressing the unique nature of GPO and the FDLP, policymakers must keep in mind that specific recommendations that may at first seem to be focused on solving fairly narrow concerns can have implications that are much more far reaching and much less beneficial to groups outside the depository community.

On behalf of the IIA, as well as LEXIS-NEXIS and CIS, I want to again thank you for this opportunity to present the industry's views to the committee. We stand ready to assist the committee in its efforts and look forward to working with you as the details

of Title 44 are crafted.

[The prepared statement of Mr. Massant follows:]

PREPARED STATEMENT OF ERIC MASSANT, DIRECTOR, GOVERNMENT AND INDUSTRY AFFAIRS, LEXIS-NEXIS AND CONGRESSIONAL INFORMATION SERVICE, INC., BETHESDA, MD, ON BEHALF OF THE INFORMATION INDUSTRY ASSOCIATION

Introduction

Good Morning, Mr. Chairman and Members of the Committee. My name is Eric Massant, and I am Director of Government and Industry Affairs at LEXIS-NEXIS and Congressional Information Service, Inc. ("CIS"). I would like to thank you for the opportunity to appear before you today to present the views of the Information Industry Association ("IIA") regarding issues concerning public access to government information in the 21st century. As Chair of IIAs Committee on Government Information Policy, I can assure you that IIA believes strongly, as does my firm, that access to government information is essential to a free and democratic society. I would like to commend you, Mr. Chairman, and the Committee for organizing such thorough hearings on the subject of legislative reform of Title 44 of the U.S. Code, which will have a great impact on a number of important issues relating to how the public will continue to gain access to information disseminated by federal agencies—including Congress.

The Information Industry's Interests in Title 44 Reform

IIA is the trade association of leading companies involved in the creation, distribution and use of information products, services and technologies. Its 550 corporate members range from large multinationals to entrepreneurial start-ups. The Association includes traditional and electronic publishers that provide a wide variety of products and services covering nearly every subject matter imaginable, as well as interactive service providers, computer manufacturers, software developers, and telecommunications companies. Many of IIAs members obtain information from government agencies and incorporate this data into products and services that are then sold to the general public. As a result, sound federal information dissemination policy has been one of IIAs paramount public policy goals since its founding in 1968.

These policies are also of particular concern to LEXIS-NEXIS and CIS. Since the early 1970's, my firm has been providing enhanced access to federal and state information from all branches of government. We provide this data to our customers in a variety of formats—print, microfiche and electronic. These consumers encompass hundreds of thousands of professionals in the fields of law, finance, journalism, general business and marketing, as well as librarians, everyday citizens and government officials. For example, our products are used extensively by Members of Congress and their staffs. Government information may be viewed by these customers as only one component of the information products and services we provide, but it is nevertheless an essential component that allows all of them to make informed decisions that will impact nearly every aspect of their lives. Should our ability to obtain government data be encumbered, an important link in these users information chain would be shattered.

IIA, on behalf of LEXIS-NEXIS, CIS and our colleagues in the information industry, has participated actively over the years in the development and implementation of Title 44 precisely because these laws have such an enormous impact on access to executive and legislative branch information by the general public—including private sector redisseminators and their customers. Most recently, the Association served as an advisor to the Government Printing Office ("GPO") in its preparation of the recently released Study to Identify Measures Necessary for a Successful Transition to a More Electronic Federal Depository Library Program ("GPO Study").

I would like to make clear at this juncture that IIA supports the primary goal underlying Title 44 reform and of the GPO Study—namely to improve the information dissemination procedures of the federal government. We recognize that this important step can be achieved best through a continuing partnership among a range of public and private sector institutions, including the information industry, the depository libraries and the federal government itself. IIA is here

today to assure the Committee of its interest in remaining a vital part of this process as the private information industry continues to play an important role in helping provide the general public with greater access to government information.

The Information Industry's Role in Disseminating Government Information

As stated above, like other IIA member companies, LEXIS-NEXIS and CIS develop and distribute a great number of innovative information products and services—many of which incorporate government data—to meet the information needs of a wide variety of Americans. These companies add value to the data generated by government agencies by assembling and editing it; by arranging and organizing it in useful ways; by combining it with information from other sources; by adding indexing, cross-referencing and annotations; and by updating and expanding our products and services to make sure that they are comprehensive, timely and accurate. We and our competitors then distribute these value-added products to the public in convenient, useful and user-friendly formats and provide ongoing customer service—often round-the-clock customer support staffs—to assure that the customers information needs are being satisfied to the greatest extent possible.

The private sector information industry therefore plays a key role in promoting and enhancing public access to public information. The variety of products and formats that IIA member companies offer their customers helps serve the needs of a broad segment of society that prefers to obtain information from sources other than government itself, whether for reasons of convenience, privacy, or efficiency. Thus, when discussing increased access to public records, it is important to remember that users of private sector information products and services are also part of the public. To ensure that this significant segment of government information users continues to have access to the information products and services on which they rely, IIA believes it necessary for government to adopt policies which will encourage investment in, and competition among, a diversity of sources for data generated by public institutions. This diversity of sources that Americans have long enjoyed makes ours the best informed society in the world. This beneficial situation can be sustained only if a robust, competitive private sector remains unhampered in its ability to obtain and redisseminate government information.

Overriding Policy Principles in Regard to Government Information

Prior to 1995, there existed a patchwork of laws and policies in the United States—endorsed by Congress, the executive branch and the courts—that recognized the importance of open access to government information in preserving the traditions of participatory democracy. Through various rules and regulations, it had become accepted practice that the wide dissemination of government data was achieved most effectively if undertaken by a diversified group of private and public institutions.

Just last year, however, Congress took an important step in furthering these principles and practices by codifying simple and clear information policy mandates in the Paperwork Reduction Act of 1995 (P.L. 104-13). This law is supported not only by IIA, but also by the public interest and library communities and the Administration. In overwhelmingly passing P.L. 104-13, Congress established effective information policies for executive branch agencies that should assure a rich future of diversity in the sources and types of government information available to all Americans.

IIA is pleased to note that the GPO Study makes frequent reference to the provisions of P.L. 104-13; however, there is no recommendation that reform of Title 44 include application of the laws information dissemination provisions to the legislative branch of government. The Association nevertheless would recommend strongly that any proposal forwarded by the Committee require the legislative branch agencies to abide by the principles contained in P.L. 104-13. This step alone would help ensure a wide variety of information channels for public access to government information, including fostering further private sector investment and innovation in information products. Moreover, applying these

provisions to legislative branch agencies would also be consistent with the Congressional Accountability Act, a recognized milestone in the accomplishments of this Congress.

Indeed, Mr. Chairman, many of the issues about which you have expressed particular interest including; access fees, copyright-like restrictions on use of government information, and exclusive contracts with private firms for management of government databases, are already addressed in P.L. 104-13. For example, the law is quite specific in mandating that government agencies:

- regularly solicit and consider public input prior to initiating, discontinuing, or modifying any information product or service, regardless of format;
- promote a diversity of sources and ensure that no one gains an
 exclusive right to the information by requiring that the public—including private sector redisseminators—be given equal and timely
 access to all taxpayer-funded materials, even the underlying agency
 data, at no more than the cost of dissemination; and
- refrain from placing copyright-like controls on the materials by granting exclusive contracts; charging royalties; or placing downstream use restrictions on the information.

Clearly, these are important principles that should apply to all branches of government and that, if properly implemented, would assure wider access to government information. Unfortunately, IIAs experience with executive branch agencies since adoption of the law demonstrates that even more oversight of P.L. 104-13 is necessary. Therefore, in addition to adopting these principles as part of any legislative reform of Title 44, the Association would also urge Congress to institute strong measures to assure that all agencies adhere to statutory mandates once they are enacted.

Congress active participation in requiring adherence to these types of dissemination policies is crucial if the federal government is to ensure that information will continue to be made available as the FDLP adjusts to an electronic environment. Just one example may be illustrative.

As the Committee is aware, the Office of Management and Budget ("OMB") has recently forwarded a proposal in response to the GPO Study. That proposal recommends that each agency put in place a chief information officer to oversee each agencys information dissemination functions. IIA strongly supports the notion of establishing such functionaries within each agency and believes that no matter the future of GPO or the FDLP, responsible officials that are aware of the mandates of P.L. 104-13 and that are charged with assuring that their agency adhere to them can only improve access to government information for all members of the public. However, IIA must also point out that a similar recommendation was first made over 2 years ago in OMBs own Circular A-130 and there is a statutory requirement under P.L. 104-13 mandating each agency head to designate a senior official to oversee the requirements of the law-including information dissemination. The fact that OMB is now proposing this idea as a seemingly new recommendation is evidence that Congress must insist on strict adherence to whatever laws it adopts to foster greater access to and more effective dissemination of government information, whether in the executive or legislative branches.

Issues of Concern with Regard to Title 44 Reform

Adoption of these types of overriding information policies is an important consideration for this Committee. At the same time, IIA recognizes that there are equally significant, additional issues to be addressed in terms of Title 44 reform, if reorganization and reengineering of GPO and the Federal Depository Library Program ("FDLP") is to meet the challenges of government information dissemination in the digital era. Title 44 serves two functions. First, it establishes the statutory authority that requires the federal government—including Congress—to procure printing services through GPO. Second, Title 44 provides the authority for two very important methods of disseminating executive and legislative branch data to the general public—the GPO sales program and the FDLP. It is the

latter, GPOs dissemination responsibilities authorized by Title 44, which draws the information industry into the debate.

There are two distinct aspects of GPO's dissemination functions that are of interest to IIA. The first of these is the GPO sales program, which provides government information to individuals and businesses that can afford to purchase it directly. The sales program has therefore been a prime source for private sector purchases of both congressional and executive branch information. The second aspect is the Federal Depository Library Program, and changes made in this activity may set precedents that relate to the way in which federal agencies release their information to the public. I will now turn to specific IIA concerns and cautions about issues already raised in the debate engendered by the GPO Study.

1. Legislation to reform Title 44 should avoid trying to create an entity that provides all information services to all users.

One of the primary benefits to Americans from GPOs role in disseminating federal information has been the ability of the agency to serve the needs of those members of the public who either cannot or choose not to receive data directly from the agencies themselves. The GPO sales program allows private sector providers to purchase data for redissemination to their customers, and the FDLP assures that Americans who have no other opportunity or means of accessing federal information have locations where this data can be found.

IIA is therefore concerned with statements and references contained throughout the GPO Study that suggest the agency wants to be all things to all people in terms of supplying federal data. Specifically, there seems to be a clear attempt to alter GPOs traditional role of duplicator and disseminator of federal government information to one of publisher—a move that IIA feels would be ultimately detrimental to the goal of increasing the dissemination of government information. The difference between these two roles is critical, and IIA would caution against attempts to greatly expand the agencys role in this manner for several reasons.

Attempting to meet the information needs of all users in the digital era is an expensive undertaking. My firms experience in the competitive information marketplace is not unlike that of many other IIA members. Addressing the everchanging expectations of information users in this day of electronic information is a demanding and time-consuming endeavor. Successfully assessing the needs of these consumers requires enormous investments—both financial and human—in terms of market research and testing; product design and development; and ongoing customer support. IIA questions whether it is possible for the federal government to enter the marketplace with promises of meeting the needs of all citizens without risking enormous and needless expense to the American tax-payer. In addition, altering the role of GPO in this manner will divert scarce resources at the agency from the FDLPs primary mission of ensuring that a broad segment of society has access to basic government information.

Further, IIA believes decisions about information creation, including formatting—which GPO foresees undertaking—is properly the sole responsibility of the originating agencies and should be based on the statutory authority and legitimate needs of those agencies and the users of that data. In short, IIA believes all editorial control should remain with the originating agencies. In contrast to this concept, the GPO Study is replete with references to the notion that government information should be standardized and the FDLP should be the catalyst for this standardization. Under this scenario, if agencies should choose not to publish in the standard formats that GPO determines are useful, GPO could then convert

agency publications to the one GPO finds acceptable.

IIA would submit that the most important function of Government Printing Office has been and continues to be its role as the sole source for some federal government information. Because GPO is the only source, it is crucial that the integrity of the information originated by the agency be preserved. This situation could be jeopardized should GPO begin making editorial decisions about the federal government information it disseminates. Finally, with regard to standardization, IIA is compelled to raise one other point. GPO maintains that standard-

ization of government information will aid the private sector. Many IIA members feel this notion is ill-founded. While some benefit may accrue to private sector redisseminators, it is likely that additional formatting by GPO will increase costs for information companies by requiring resource intensive removal of the formatting. In turn, companies will have little alternative but to pass this additional expense on to their customers.

 Legislative proposals should avoid adopting policies that place, or have the potential to place, governmental agencies in the position of competing with private sector information providers.

The GPO Study contains language which implies that the agency might take on a role of competitor to the private sector redisseminators of government information. For example, one of the suggested goals is to provide "information in formats appropriate to the needs of users and intended usage."—functions that constitute a significant part of the private sector activities I outlined earlier. In terms of direct competition with the private sector, a greatly expanded role of this nature would harm many IIA members that have established successful customer relationships with depository libraries and already provide them with products and services that help them tailor their information acquisition needs to meet the expectations of their patrons.

In terms of more widespread competition, goal number three of the Study implies that GPO would transform agency information products into new products or services designed to meet the many varying needs of the numerous users of GPO information even beyond the FDLP. There can be little doubt that this would constitute a significant change in the nature of the agency. Based on IIA member experiences with other government agencies, the Association submits that this new GPO would find the temptation to compete with the private sector information providers would be too great to resist. This will be increasingly the case the more GPO feels compelled to meet the demands of its presumably growing number of customers that they have access to the same types of innovations provided by private sector producers. Given the imbalance in resources that a taxpayer-funded agency like GPO could draw upon, as opposed to the shareholder financing of most information companies, it would give GPO—intentionally or not—an unfair, market advantage.

I would emphasize that IIA's concerns are not only with the potential economic harm to the information industry and its workers, but also to the more general principle of maintaining a proper balance between the roles of the private sector and the government in assuring the widest possible access to government information. The most obvious consequence of granting these added functions to GPO would be the diversion of limited resources away from what is the agencys proper mission—meeting the information needs of those who cannot otherwise obtain this data. Of further consequence, however, would be the needless duplication of other current or future private sector products in the market. Should this occur, there is a very real potential that private sector providers would greatly reduce their activities or even withdraw certain products and services from the market-place, thereby inviting a government monopoly over information, with all the potential implications for censorship and control that are anathema to our society. In the long run, it will be the general public—beginning with our industrys customers—that suffers.

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Title 44 reform should allow flexibility in library spending allocations for information technology and services.

The GPO Study acknowledges that converting to a fully electronic dissemination system does not necessarily save money for either GPO or the depository libraries. While Title 44 reform does not directly affect spending on library programs, it is an issue that is pertinent to the process this Committee is undertaking. There have already been suggestions made that Congress consider special appropriations to help FDLP libraries assume some of the significant financial investments to move from a paper system to a completely electronic FDLP. In particular, these proposals call for providing federal dollars to allow libraries to buy technology.

IIA does not take a position either for or against funding for these purposes and believes the decision does properly rest with Congress as it grapples with a host of fiscal priorities. However, if Congress determines that funding should be allocated in order to serve the depository library users in better, more efficient and economic ways, IIA would recommend that consideration be given to allowing libraries some flexibility in determining how best to spend such funds. For example, libraries could be given the opportunity to determine if the funds would be spent best on technology improvements, or on training, or possibly on the purchase of private sector products that meet each individual librarys and its particular patrons needs. In any event, should funds be appropriated for the purchase of technology or the provision of training that will assist library patrons in the use of electronic information that may include private sector products and services, IIA would strongly recommend that Congress require that libraries also undertake to inform their patrons about the importance of intellectual property rights.

 Congress should consider the broader implications Title 44 reform on executive branch agency information policy.

The GPO Study addresses the definition and scope of what constitutes an official government publication, as well as the necessity of finding means to "assure the authenticity of Government information in the FDLP." Both of these notions go far beyond the current provisions contained in Title 44, and the implications of such a change will have repercussions far beyond the FDLP.

IIA agrees that citizens may experience some confusion about which electronic communications originating with federal agencies are "official." There is no doubt that federal agencies need to provide the means to address this issue in the electronic environment. We also recognize that Title 44 needs to provide flexibility to allow electronic publications to be considered official publications. However, IIA has serious concerns about the GPO Studys discussion of the need for authentication of government information.

Labeling certain data as "official" may not be as much of an issue, once the chief information officers mandated by P.L. 104-13 and now recommended again by OMB are appointed and their authorities and responsibilities clearly defined. One important role these officials could serve would be as watchdogs over agency releases of information. More importantly, they could serve as the central authority within each agency that determines which publications or versions of publications would be distributed as official government documents.

On the other hand, IIA would strongly recommend that the issue of authentication be explored thoroughly before Congress determines that some sort of electronic watermark or imprint be attached to each document. Such a move could have a chilling effect on private industry, which would be loathe to assume any additional responsibility or liability in the eyes of the public as presenting only "authentic" versions of government information. If the private sector is unecessarily encumbered in its ability to disseminate government information in the manner that best suits its customers needs, fewer citizens will ultimately have access to government information in the form or format that is most useful to them.

Conclusion

As the federal government moves toward electronic dissemination of the public information it creates, there are and will continue to be many thought-provoking and challenging issues with which to grapple. IIA supports both Congress and GPO in efforts thus far to move the FDLP into the world of digital, electronic dissemination and believes that now is the proper time for the evaluation of Title 44, including how its potential reform would affect the future of GPO and the FDLP.

While trying to craft solutions to these complex issues, it is crucial that decisions be made with the clear understanding that they can and will have implications for a broad segment of society--libraries, the information industry and most importantly their patrons and customers, the American public. One way to assure that the United States continues to foster the most open, democratic society and the most successful, productive information industry in the world is

adherence by all branches of government to information policies such as those contained in P.L. 104-13. In addition, when addressing the unique nature of GPO and the FDLP, policymakers must keep in mind that specific recommendations that may at first seem to be focused on solving fairly narrow concerns can have, on closer inspection, implications that are much more far-reaching and much less beneficial to groups outside the depository library community.

On behalf of the Information Industry Association, as well as LEXIS-NEXIS and CIS, I want to again thank you for this opportunity to present the industrys views to the Committee. IIA and its members stand ready to assist the Committee in its efforts and look forward to working with you as the details of Title 44 reform are

crafted.

The CHAIRMAN. Excellent presentation. Thank you very much.

Mr. Gindlesperger?

TESTIMONY OF WILLIAM A. GINDLESPERGER, PRESI-DENT, ABC/BIDS PLUS, CHAMBERSBURG, PA, ON BE-HALF OF ABC ADVISORS, INC.

Mr. GINDLESPERGER. Good morning, Mr. Chairman. I am William Gindlesperger, president of ABC Advisors, Inc. For 28 years, I have watched GPO print procurement become the most efficient and cost-effective small business contracting program in Federal Government. This system is now under assault from the executive branch and from within GPO itself, with catastrophic consequences for the printing industry.

In the past, Congress has maintained control over dissemination of public information by mandating in Title 44 that the executive obtain printing exclusively through GPO. For Congress to relinquish that control would endanger our heritage of an informed citizenry, which has always been a check on the misuse of Government power and a fundamental pillar of our

democratic institutions.

The Department of Justice has now declared this congressional policy unconstitutional and invited the executive to ignore the law by not enforcing GPO procurement requirements. Great uncertainty now pervades the entire Federal print market as agencies openly flaunt statutory requirements of Title 44 and abandoned bidding procedures contrary to the

taxpayers' best interest.

What is required, in my opinion, is emergency stop-gap legislation that brings control to chaos, that satisfies executive demands for greater procurement responsiveness and for greater reliance on the private sector to fulfill printing needs. The legislative solution is to give each executive agency the choice of using GPO to fulfill its printing needs or procuring its printing directly, but under the same rules and procedures that govern GPO print procurement.

What is most important is that all Federal printing, with limited exceptions in the areas of national security and small-volume copying, be procured through the private sector

on the basis of full and open bidding competition, with all bidding opportunities available to all interested parties.

Allowing executive agencies to compete for print procurement forces GPO to improve its services. GPO's record has been poor in recent years. GPO has pursued policies and actions which serve only to undermine its supporters. Most prominent is GPO's failure to implement an electronic commerce system linking GPO with its customers and printing vendors. Instead, GPO has utilized precious financial and time resources to replicate electronic advertising and printing solicitations when, one, similar systems are already available at the Commerce Department and in the private sector, and, two, it is acknowledged that GPO competition is already so stiff that only the wary and the hungry can compete any longer.

Electronic commerce would permit GPO to cut costs and improve communication through on-line exchange of business information between GPO and its customers and trading partners. But instead of developing electronic commerce, GPO apparently believes that it is easier to compete with the private sector by offering value-added services at no charge. As a matter of policy, the Federal Government should not step in where the

private sector is already performing a job well.

Unlike documents such as the Congressional Record and Federal Register, which, it can be argued, should be accessible to the general public at low cost, procurement information has a concrete, monetary value only to selected audiences, with financial interest in using that same information for their own economic gain. The Federal Government should not and cannot afford to be in the business of spending taxpayer dollars to underwrite value-added services, then offering those same value-added services for free with no cost recovery, which services are then used by private sector companies for the sole purpose of making a profit.

Access to Federal contracting information is not a public information or educational issue but, rather, a commercial matter in which private firms and individuals are willing to pay for printing contract information according to their individual levels of financial interest. This is why FACNET is not accessible

to the general public.

GPO today is engaged in the misguided attempt to create taxpayer-funded, value-added services on-line, accessible to the public for free. This issue is not free public access to printing contract information but, rather, bureaucratic governmental control over the system that disseminates such information.

I respectfully submit that JCP should be strengthened to protect the absolute requirement that Congress control access to public information, that a system of print procurement should be codified to eliminate constitutional concerns, to establish uniform rules that favor neither GPO nor the executive, to assure a fair, open, and competitive procurement system, and to direct

GPO to once again become a customer-oriented service organization.

I urge Congress to establish such a print procurement policy as soon as possible. Thank you.

[The prepared statement of Mr. Gindlesperger follows:]

PREPARED STATEMENT OF WILLIAM A. GINDLESPERGER, PRESIDENT, ABC
ADVISORS, INC., ALEXANDRIA, VA

Introduction

Mr. Chairman and Members of the Committee, my name is William A. Gindlesperger, and I wish to thank you for providing me with the opportunity this morning to testify on the future of the Government Printing Office (GPO), the need to revise and update Title 44 of the United States Code, and the importance of the federal printing market to thousands of printing and graphics arts firms throughout the United States. Since 1975, I have been the President of ABC Advisors, Inc., an information systems and management consulting firm doing business as ABC and ABC/Bids PlusSM in Chambersburg, Pennsylvania, and specializing in providing value-added services to commercial printers who are active in the federal printing market. During these last 21 years I have personally watched the GPO print procurement system evolve into what I believe is the most efficient and cost-effective procurement and small business contracting program in the federal government. This system, however, is now under assault, both from the executive branch and within GPO itself, with far-reaching and potentially catastrophic consequences for the printing industry as a whole.

The Importance of Federal Print Procurement to the Printing Industry

Last year there were 2978 printing firms who were awarded one or more GPO jobs. Of these printing firms, 762 are present or former clients of ABC, and 749 were particularly active in the GPO market, winning 10 or more GPO jobs throughout 1995. ABC prides itself on its ability to match individual printing firms with the greatest number of GPO bidding opportunities, while promoting the GPO print market, training new vendors on how to obtain and perform well on GPO jobs, and building a stable and high quality vendor base for GPO to use and rely upon. As a result, access to GPO jobs through full and open bidding competition has become increasingly important to the "bottom line" of thousands of printing firms, both large and small.

According to industry figures, there are more than 50,000 printing and graphic arts businesses in this country, employing about 1,000,000 workers. The average printer is a small business firm with less than 20 employees. Together these printers produce over \$100 billion in printing each year, of which GPO print jobs currently total more than \$500 million, or about ½ percent of that amount, which is down significantly from nearly \$1 billion in GPO work several years ago. While small in relative terms, this \$500 million plus volume in federal print procurement is critical to many companies because the typical printing firm operates on a profit margin of 4 percent or less. To maintain this profit margin, commercial printers often rely on GPO work, which is bid at or near cost, to fill downtime in their production schedules and to generate "contribution" income (i.e. income after payment of out-of-pocket costs) needed to cover overhead and maintain their production facilities for more lucrative commercial work.

The loss of GPO work thus creates problems for the printing industry as a whole in two ways: First, for those companies who rely on GPO work to generate more than 4 percent of their income, the loss of GPO work means that they are immediately operating in the red. Second, for those companies who rely on GPO work for less than 4 percent of their income, the loss of such work creates holes in their production schedules and open capacity that must be replaced with commercial work in the private sector. As firms bid more competitively for this commercial work, prices begin spiraling downwards edging even more firms towards bankruptcy.

While other industries face similar dilemmas, what makes the outsourcing of GPO work unique is that it has never been viewed or justified as a means of supporting the printing industry, but rather as a cost-savings to the federal government itself. The purpose of moving in-house government printing and duplicating into the private sector is not to subsidize the printing industry, but to take advantage of the low "contribution" pricing that the printing industry offers. In short, it saves the government money to support a full and open competitive procurement system that provides the printing industry with access to all government printing bidding opportunities.

Throughout all of my years of experience, one fact has remained constant: if printing firms doing GPO work could obtain more profitable commercial work to replace their lower contribution GPO volume, they would do so instantly. Conversely, if GPO work were acquired in the same fashion as commercial work, the cost of that work would skyrocket, potentially doubling the \$500 million plus volume currently spent on GPO work to more than \$1 billion in federal print procurement costs. Over 10 years, these figures conservatively represent more than \$5 billion in needless and wasteful spending, as opposed to the highly competitive bidding system that has evolved at GPO.

Should Federal Print Procurement Be Centralized?

Does this mean that ABC supports centralized printing procurement through GPO? Not necessarily. What ABC favors above all else is a requirement that all federal printing, with limited exceptions in the areas of national security and small volume copying, be procured through the private sector on the basis of full and open bidding competition, with all bidding opportunities available to all interested parties. This goal can be achieved either through strengthening the current GPO system, or through a decentralized system that allows individual agencies to procure printing directly, provided that (1) all procurers of federal printing play by the same rules and (2) key features of the current GPO system are maintained to ensure continued cost-savings, procurement integrity, and quality performance. These features include:

- All bid solicitations should be released through a secure process of formal issuance that establishes a date and time certain when each solicitation is deemed to have been issued and made available to the public.
- 2. All bid solicitations should be publicly displayed or posted immediately upon issuance and disseminated through solicitation distribution lists with sufficient time (at least four hours prior to the time bids, quotations, or proposals are due) to such vendors as may be necessary to ensure adequate competition for each procurement.
- 3. All bid solicitations should be handled in a manner that guarantees a date and time certain for bid opening (in the case of formal or sealed bids) and bid announcements (in the case of informal or unsealed bids) with all bid results made available to any interested party on a full cost-recovery basis.
- 4. All procurers of federal printing should establish solicitation subscription services whereby any interested party can purchase on a full cost-recovery basis all bid solicitations and bid results on print jobs awarded by each procurer of federal printing.
- 5. All responsive bids, quotations, or proposals should be considered by the contracting agency with each federal printing contract being awarded to the low responsive and responsible bidder to assure both fairness to the vendor and job quality and service to the agency buyer.
- 6. All print jobs, including all small purchase jobs, should be obtained through a system of full and open competition that incorporates the features described above, with certain limited exceptions for national security and small volume copying.

This last point is both crucial and unique to the printing industry. Of all of the goods and services procured by the federal government, printing is the only

customized manufactured product where the average job is \$2,500 or less.¹ It is for this reason that the simplified acquisition procedures adopted in the Federal Acquisition Streamlining Act of 1994 (FASA) would undermine and eventually destroy the cost-saving features of the GPO print procurement system. If, in accordance with FASA, government printing were suddenly purchased on a three-tier system of (i) full competition only for formal jobs over \$100,000, (ii) limited competition with simplified acquisition procedures for jobs between \$2,500 and \$100,000, and (iii) no competition for credit card "micro-purchases" under \$2,500, the net effect would be little or no bidding competition on printing contracts with significantly higher procurement costs to the federal government. Credit card purchases in particular could lead to a collusive, non-competitive system that freezes out most of the nation's small printing firms. A select group of large printing companies with active sales forces based in Washington, D.C. might benefit from this lack of competition, but the effect would be devastating on the printing industry as a whole.

What is essential for the printing industry, and particularly for those small businesses that make up the backbone of the industry, is a system which continues to ensure access to bidding opportunities for both formal and small purchase jobs. If GPO remains the exclusive buyer of federal printing, then the current procurement system should remain intact and need only be strengthened by stricter enforcement of the prohibitions against direct agency purchases and the continued elimination of costly in-house printing and duplicating operations. If individual agencies are allowed to procure or purchase printing directly, however, then the system of full and open competition described above must be mandated by law and made applicable to the entire executive branch.

The Need for Legislative Action

A decentralized system of full and open competition could develop naturally over time under the guidance of Congress and the Joint Committee on Printing (JCP), but unfortunately, as a result of the legal memorandum issued on May 31, 1996 by the Department of Justice Office of Legal Policy ("DOJ Memorandum"), neither Congress, GPO, nor the printing industry can afford the luxury of time at this point. This DOJ Memorandum opined that Sections 501 and 501 Note of Title 44 (requiring the executive branch to procure all of its printing by or though GPO) are unconstitutional violations of the separation of powers doctrine. As a result, great uncertainty now pervades the entire federal print market, as executive agencies openly flout the statutory requirements of Title 44 and abandon competitive bidding for their printing needs.

The DOJ Memorandum is premised on the rule of constitutional law that Congress cannot control officials who perform non-legislative functions. The Department of Justice concluded that the current system of federal print procurement violates this principle because (1) Congress exercises supervisory control over GPO through the JCP, and (2) by mandating that all federal printing be procured through GPO, Congress has vested non-legislative functions in the GPO.

ABC would challenge the conclusion that GPO performs executive functions merely in the way it procures executive branch printing. The content of such printing is left entirely to the discretion of each executive branch agency, while the mechanical act of printing would appear to fall within the traditional legislative function of ensuring public access to publicly funded government information. The DOJ Memorandum also runs counter to the Comptroller General's opinion that Sections 501 and 501 Note of Title 44 are valid statutory provisions.

Nonetheless Congress cannot wait for the courts to resolve this constitutional debate. Although Title 44 remains the governing statutory law, the Department of Justice has in effect invited executive agencies to ignore this law by renouncing

In 1995, for example, GPO placed 150,720 print orders on term contracts totaling \$224,100,000, and 65,696 one-time formal and informal jobs worth \$321,757,000, for a combined average of \$2,511 per job. After removing the high-end dollar volume jobs (about 2 percent of the total) from these figures, the combined average is less than \$2,000 per job.

any intent to enforce its GPO procurement requirements and by advising executive agencies that there is "little or no risk of liability to contracting officers" who procure printing directly outside GPO. The result has been predictable: executive agencies are beginning to bypass GPO in increasing numbers with respect to both credit card purchases of small purchase jobs and formal acquisitions of multi-million dollar procurements.

In just the last two weeks, ABC has learned from its printer clients of (1) a print job worth approximately \$3 million being procured directly by the Department of Veterans Affairs; (2) an \$8,000 reprint order being purchased by credit card through the Defense Printing Service; (3) credit card purchases for informal jobs under \$2,500 by the Department of Health and Human Services and the Social Security Administration. To determine how widespread these unauthorized non-GPO print purchases have become, ABC has asked over 3,000 printing firms nationwide to contact us with any information about any federal printing jobs being procured or purchased outside GPO. Even before the DOJ Memorandum was released, in the months of September to December 1995 alone, there were 1,253 print procurement orders for books and pamphlets issued outside the GPO system through the Federal Acquisition Computer Network (FACNET).

Finding the Best Legislative Solution

Congress must find an acceptable legislative solution before governmental control over federal printing devolves to the executive branch by default. One legislative approach that ABC has heard discussed within the printing industry in recent weeks is to eliminate Congressional control over GPO by restricting the JCP to oversight functions and transferring all remaining duties and authority to the Public Printer, who would continue to serve as a presidential appointee but solely as an executive branch official. Such an approach, while apparently simple and superficially appealing, is fatally flawed in a number of key aspects.

First, such a legislative proposal is not likely to be supported by executive branch agencies and therefore would probably be opposed or, if necessary, vetoed by the President. The driving force behind the DOJ Memorandum was the General Services Administration (GSA), which is anxious to compete with GPO for control of federal print procurement and, indeed, which sought the DOJ Memorandum in the hope of receiving a declaration that 44 U.S.C. §§ 501 and 501 Note are unconstitutional. GSA clearly wants to procure its printing directly regardless of what supervisory control the JCP retains over GPO, and this is probably true

of many other executive agencies as well.

Second, resolving the constitutionality problem is not simply a matter of restructuring the JCP. To fully avoid the constitutional issue identified in the DOJ Memorandum, GPO would have to become a true executive agency, which in turn raises numerous and difficult issues of whether current GPO procedures and operations could be maintained. For example, would the Federal Acquisition Regulation (FAR) now cover GPO procurement in the same way that all executive branch procurements are governed? If so, would the FAR exemptions for micropurchases under \$2,500 and its simplified acquisition procedures for jobs under \$100,000 now apply to printing procurement? Similarly, if GPO became an executive branch agency, would production of the Congressional Record and other published Congressional materials remain with GPO? If so, the executive branch would effectively control Congressional printing, which itself may violate the separation of powers doctrine. At a minimum, any new statute would need to resolve the many procedural and substantive conflicts that now exist between the FAR and GPO's own Printing Procurement Regulation, as well as the potential for abuse by the executive branch in the way future Congressional printing is handled.

Third, and perhaps, most importantly, it would be a huge and potentially irreversible error for Congress to relinquish its authority over GPO, which through the Superintendent of Documents still serves as the nexus of Congressional control over public access to government information. A principal mission of GPO remains the dissemination of public information and, historically, Congress has always retained control of the process by which taxpayer-financed research and information is made available to the general public. As the govern-

mental body elected by and most accountable to the people, this crucial link with constituents must be maintained.

In recent hearings before this Committee on the Federal Depository Library Program there was widespread agreement among the witnesses testifying that executive agencies will not be as responsive as Congress to public demands for quick, easy, and inexpensive access to government information and that Congress should retain its leadership and supervisory functions in this area. Ending JCP control over GPO might satisfy constitutional concerns over the narrow issue of print procurement, but it would also force Congress to either surrender its traditional role in safeguarding public access to government information or legislate a major internal restructuring of GPO, which cannot be accomplished in this legislative session or in time to preserve GPO or the many small business printing firms who rely on steady GPO work.

What is needed is a stopgap legislative measure that generates greater cost-savings for the government by placing more federal printing and duplicating work in the private sector, while responding to the demands of the executive branch for greater control over its print procurement. Moreover, it should achieve these goals in a way that simultaneously promotes executive branch reliance on GPO, while encouraging GPO to improve its services to executive agency customers, which may in fact have been the root of this GPO print procurement problem in

the first place.

The legislative solution that would best accomplish all of these aims is to give each executive agency the *choice* of either using GPO to fulfill its printing needs or procuring its printing directly, but only under conditions which require such agencies (i) to follow the same rules and procedures that govern GPO print procurement, as well as (ii) to shut down any in-house printing and duplicating operations which can be done more cost-effectively by the private sector.

Such a legislative approach would completely resolve the constitutional separation of powers issue since executive agencies would no longer be required to procure printing through GPO, but only encouraged to do so. It would also appeal to executives agencies like GSA, the National Technical Information Service (NTIS), and the Defense Printing Service (DPS), which either have or wish to develop their own print procurement services. Moreover, since the GPO print procurement system has already proven itself to be a successful model, legislation authorizing executive agencies to procure printing using the GPO model could be implemented without delay or disruption to the federal print procurement system.

Finally, to address any concerns that a decentralized print procurement system might raise with respect to so-called "fugitive" documents or public access to printed documents procured or purchased directly by the executive agencies, Congress could further mandate that, as a condition of establishing direct non-GPO print procurement services, agencies must make all such documents available to the Superintendent of Documents and the depository libraries in electronic or printed format after a reasonable period has lapsed for the agency to promote and market its own publications.

Improving GPO Customer Service and Strengthening GPO's Vendor Base

An additional benefit to this legislative approach is that, by allowing executive agencies to compete for print procurement, GPO would be forced to improve its procurement services to retain the loyalty of its agency customers. Unfortunately, GPO's record in this regard has been poor in recent years. ABC deals with GPO vendors on a daily basis and, thus, is a recipient of many vendor complaints about the growing lack of GPO communication and willingness to accommodate either vendors or the customer agencies themselves in finding the best way to meet the agency's printing needs.

In recent months, ABC has learned of a variety of arbitrary actions by GPO procurement officials, including (1) the disallowance of a contract modification that the Department of Treasury had requested, approved, and was willing to pay for in order to obtain the best quality job; and (2) repeated refusals by GPO to permit extensions of the delivery schedule when the Bureau of Land Management was closed during the government shutdown last December and the vendor in

question had no way of finding out if its pre-production sample had been approved. ABC believes that a fundamental reason why executive agencies are seeking direct print procurement authority is the failure of GPO in recent years to remember that it is a service agency whose focus should be on fulfilling customer agency needs and building a dependable, high quality vendor base.

In fact, GPO has pursued policies and actions in recent months which will serve only to undermine its vendor base and, ultimately, alienate its supporters in the printing industry. The most prominent example of GPO working against its own best interests is its development this year of an electronic bid solicitation posting system and its concomitant failure to implement a genuine Electronic Commerce/Electronic Data Interchange (EC/EDI) system. Formally announced on March 15, 1996, the GPO's electronic posting system is now part of its "GPO Access" Home Page on the World Wide Web. There is little doubt, however, that GPO plans to expand its current electronic posting system into a costly valueadded bid solicitation distribution system.

Although this electronic posting system initially included only general procurement information and formal bid solicitations from the GPO Central Office, it now disseminates formal bid solicitations from the Hampton, VA Regional Printing Procurement Office, as well as value-added bid results in the form of bid "abstracts" from both the Central and Hampton Offices. This expansion of the electronic posting system is part of a stated GPO goal to create an on-line system that will "encompass the entire PPD [Printing Procurement Department] nationwide" and provide "the public with quick, easy, and inexpensive access to procurement information."

Once the "entire PPD operation nationwide" is posted on GPO's Web site, however, the only way to then provide the public with "quick, easy, and inexpensive access" is through the development of value-added services that compete directly with the private sector. The reason is that placing "the entire PPD operation nationwide" on the Internet means the electronic posting of 200-250 bid solicitations each business day. This large and unwieldy amount of procurement information is virtually unusable by commercial printers without the type of value-added services that ABC has already pioneered and delivered to the marketplace to ensure "quick, easy, and inexpensive access" by its commercial printer clients.

In order to create and implement an on-line system that encompasses "the entire PPD operation nationwide," GPO will need to convert all its procurement offices to PC-based systems and retrain its printing specialists to prepare, collect, and manage its bid solicitations digitally. Moreover, once the bid solicitations are digitized, it is not simply a matter of putting the bid solicitations on the Internet. Even after a new GPO computer system is in place, GPO will incur significant additional operating costs on a daily basis to manage its Web site server, convert all of the bid solicitations to "pdf" format, and write the necessary "html"

protocols.

Once it has spent millions of dollars to accomplish these tasks, GPO will undoubtedly proceed with developing the value-added services needed to make its system usable. GPO has repeatedly told its vendors that it will adapt its on-line system to satisfy vendor complaints and needs. After it becomes clear (if it is not apparent already) that vendors are dissatisfied with an electronic posting system which fails to provide easy access and search capabilities to the thousands of bid solicitations that GPO is planning to place on the Internet, this dissatisfaction will simply become an excuse for developing value-added services in competition with the private sector.

Although the creation of an electronic posting system was neither authorized by statute nor supported by a cost-study analysis, GPO has tried to justify this system on the grounds that such posting can be "accomplished at virtually no cost to the agency." Since few commercial printers have the necessary technology or resources to take advantage of GPO's electronic posting system, however, GPO has no plans to stop distributing hard-copies of bid solicitations to the public. Thus, any "cost-savings" achieved by GPO in developing and operating an electronic posting system is no cost-savings at all, but simply an added dissemination cost, particularly when you include the loss of revenue that GPO earns

through the sale of bid solicitations as part if its Bid Subscription Service. Such an added cost might be justified if no similar services were available in the

private sector, but they are indeed available, as ABC can attest.

The cost to GPO of undermining and displacing commercial bid services is further underscored by the resulting loss or diminution of a qualified vendor base. Under present GPO quality assurance procedures, many key aspects of print production-including packaging, labeling, paper requirements, and service—are not checked in the pre-approval quality-level screening process. As a result, many new vendors who obtain contract awards by dealing directly with GPO are either unqualified to perform particular contract awards or unfamiliar with many of the procedures and requirements that are unique to the federal print market. Under the current evolved system, companies like ABC help identify and protect the GPO procurement system from unqualified or unprepared printers by providing training and guidance to new vendors on how best to (i) estimate government printing jobs, (ii) comply with GPO's bidding procedures and requirements, (iii) avoid print production pitfalls, and (iv) perform awarded contracts so that they can meet GPO quality assurance standards.

Without such training and guidance, which GPO does not provide on its own, many new vendors either become discouraged in the bidding process, or, if they win awarded contracts with "low-ball" bids, discover that they cannot meet GPO quality assurance and delivery standards for the bid price or that they are unprepared to deal with the regulatory system which governs federal printing. In either case, they quickly leave the GPO print market, often never to return. Through its training and customer service programs, ABC helps maintain the GPO vendor base by showing new vendors how to adjust quickly to a government-regulated print procurement system, thereby not only improving their performance on awarded jobs, but also increasing their chances of obtaining

contracts and higher quality-level ratings.

The development of a value-added electronic posting system that is freely and widely accessible over the Internet will lead to an influx of "low-ball" bidders who are unfamiliar with the federal print market, which in turn will undermine the GPO print procurement system in at least four ways: (1) established qualified vendors will themselves become discouraged over the bidding process and leave the federal print market; (2) print production problems will increase, causing more frequent default terminations; (3) the commercial bid services will have to cut back or eliminate vendor training entirely to make up for lost revenue; and (4) agency customers will become increasingly dissatisfied with GPO job performance and begin looking elsewhere in the federal government or private sector to fulfill their printing needs.

Lastly, as more vendors leave the federal print market, fewer vendors will be willing to enter or return to the GPO procurement system. Traditionally, companies like ABC have been the primary source of recruiting new GPO vendors and extolling the advantages of GPO procurement to the private sector. ABC, for example, writes about the federal print market on a regular basis in all of the nation's major printing and graphics publications. This marketing effort on GPO's behalf will soon end if ABC and other value-added service companies are displaced by a GPO taxpayer-funded value-added electronic bid solicitation

distribution system.

Bringing GPO into the Age of Electronic Commerce

One goal that I believe we can all agree upon is the need for GPO to develop and implement an EC/EDI system which complements rather than competes with the private sector. ABC has been a strong advocate of EC/EDI in both the government and private sector and has urged GPO for a longtime to develop a genuine EC/EDI system. Properly construed, an Electronic Commerce system refers to the paperless exchange of business information using EDI in a standardized format between trading partners. A trading partnership in the GPO context begins only when a printing contract is awarded (i.e. after bid solicitations are disseminated and competitive bidding is completed). Correctly designed and implemented, an EC/EDI system could not only make the GPO procurement system more efficient and less costly, but also greatly enhance communications and cooperation between GPO, commercial printers, and customer agencies.

This is not to say that a genuine EC/EDI system is incompatible with the electronic dissemination of bid solicitations. To the contrary, FACNET is a system which seeks to combine the best elements of both concepts. The key to achieving this goal is FACNET's reliance on private sector value-added networks (VANs) and value-added services (VASs). To fulfill the Congressional mandate of a "single face to government," while taking full advantage of private sector advances in EC/EDI technology, FACNET has been purposefully closed to the general public and accessible only to properly certified VANs through two Network Entry Points (NEPs) in Ogden, Utah and Columbus, Ohio. FACNET is presently supported by 26 federally-certified VANs, including such prominent corporations as AT&T, EDS, GE Information Systems, MCI, and Sprint.

Unlike government documents such as the Congressional Record, Federal Register, and similar documents traditionally handled by the Superintendent of Documents—which should be accessible to the general public at little or no cost—procurement information has a concrete monetary value to selected audiences with financial interests in using that information for economic gain. Accordingly, the federal government should not be in the business of offering free value-added services that are then used by private companies for the sole purpose of making a profit.

In other words, access to federal contracting information is not a public information or educational issue, but rather a commercial matter in which private firms and individuals expect to pay and are willing to pay for printing acquisition information according to their individual levels of financial inter-

est. This is why FACNET is not accessible to the general public.

The problem at GPO is that, while it claims to be moving towards an EC/EDI system, in fact, it is neither developing a genuine EC/EDI system for post-award transactions between trading partners, nor seeking to implement a combined EC/EDI-electronic procurement system (like FACNET) that incorporates private sector VANs rather than competing with them. Instead GPO is ignoring the private sector in a misguided attempt to create a taxpayer-funded electronic bid solicitation distribution system accessible to the public for free on the Internet.

Moreover, it is proceeding with this system in the absence of any cost-study analysis that could justify such a system to the Congress (although a similar cost-study for FACNET showed that a genuine EC/EDI system for executive branch procurement would cost in excess of \$26,000,000). Congress should now determine whether GPO is planning to seek a similar amount of appropriations to implement its own on-line procurement system when the private sector can

already provide such a system without taxpayer funding.

If the issue were truly whether the federal government should furnish procurement information to the public for free, then instead of spending taxpayer money to develop its own value-added services, GPO could simply give cash grants to private sector VANs for the purpose of distributing those same bid solicitations to the public for free. No one has ever recommended such a grant program because it is antithetical to our free enterprise system of relying upon the private sector to meet business customer needs. By the same token, the fact that no such grant program has ever been proposed itself suggests that the real issue is not free public access to printing acquisition information but rather bureaucratic governmental control over the system that disseminates such information.

Conclusion

If Congress does not act soon in addressing the issue of federal print procurement, it will lose by inaction its historic role of guaranteeing public access to government information. This role has been and remains a crucial part of the checks and balances system between the legislative and executive branches. ABC believes that the JCP should be strengthened to protect this important Congressional role, while allowing a decentralized system of print procurement to evolve under uniform acquisition rules that favor neither GPO nor the executive agencies. Such a system would eliminate any constitutional concerns over the separation of powers, while compelling GPO to return to its roots as a customer-driven

service organization and to focus on the development of a true EC/EDI system that utilizes the private sector to the fullest extent. I urge Congress to establish such a print procurement system as soon as possible.

The CHAIRMAN. Thank you very much. Sorry I had to take a call. I have a conference with the Armed Services Committee which is meeting now at the same time.

Now, Mr. Claitor?

TESTIMONY OF ROBERT G. CLAITOR, PRESIDENT, CLAITOR'S LAW BOOKS AND PUBLISHING DIVISION, INC., BATON ROUGE, LA

Mr. CLAITOR. Good morning, Senator Warner and members of the Committee on Rules and Administration. Thanks for your kind invitation for me to testify and share with you information that I have about certain aspects of the Government Printing Office and related matters that are presently the focus of your consideration.

First, I would like to introduce myself. I am Robert G. Claitor, the president of Claitor's Law Books and Publishing Company of Baton Rouge, Louisiana. It must seem strange that Claitor's of Baton Rouge, Louisiana, would be the foremost republisher of GPO books because we are so far removed from Washington, but that is a fact. We are. We have reprinted well over 1,000 GPO titles.

The CHAIRMAN. We have a rule in this Senate. We are not able to do what you are about to do. So if you would be kind enough from refraining, I appreciate that.

Mr. CLAITOR. Okay.

The CHAIRMAN. It is for fear that someone would get commercial advantage. That was not your intent. It is your intent—

Mr. CLAITOR. To show what we do.

The CHAIRMAN. It is manifested in your excellent statement, so we will stick with the statement.

Senator FORD. If we have an opportunity, we will drop by and look at it.

Mr. CLAITOR. Okay. Anyway, that establishes the background that I am coming from to give you my views. Now you know what we do.

Title 44 of the U.S.—

The CHAIRMAN. It is a very distinguished background and organization.

Mr. CLAITOR. Title 44 of the U.S. Code specifies that all substantial printing of Government agencies will be done by GPO. Lately, the Department of Commerce has disputed this and done some of their printing through NTIS combined with the private sector. They have recently announced that they are going to do even more through NTIS combined with McGraw-Hill, including the U.S. Industrial Outlook, which has previously been

done with GPO for many years. We and other publishers/distributors have thousands of subscribers to this title, and we will lose this business if the NTIS/McGraw-Hill deal comes to pass.

This shift of printing away from GPO is not in the public's interest. Some factors involved: greater cost and less utility to the public in the long run, great damage to the Federal Depository Library system, greater cost to produce books in the long run, McGraw-Hill and others to profit at the public's expense on work done by Government workers with appropriated funds, destruction of distribution channels already established with retailers such as ourselves, destruction of distribution channels already established with reprint publishers such as ourselves, public has to pay for profits to McGraw-Hill and others instead of have free use of the books through the Federal Depository Program, loss of jobs to GPO and Federal Depository librarians and others, reversion to more costly production through individual agencies' printing instead of the very efficient GPO printing, a host of copyright problems that do not exist under the present Title 44.

Since we are the largest reprinter of GPO books and one of the largest distributors of GPO books bought for resale, our views on this matter I hope will be useful to the committee.

On one of these books that we have here on the table, there were over 100,000 copies done by the private sector, including some by us and some by some of our competitors. The GPO price of the book was \$32. Our price was \$32. Some of the books are sold as low as \$8 apiece to schools and State labor departments. So a question that comes up is: If we make this deal where the individual agencies print their own books, such as Department of Commerce and NTIS, is the public going to be able to get books at \$8 apiece or \$32 each or \$75 per copy? And, again, I want to emphasize the copyright problems where there is no copyright on the books that are done by GPO now, and the public gets to use these books, gets to reprint these books, and we have the greatest possible dissemination of information to the public at the lowest possible price. When we make the deal with individual publishers and copyright becomes involved, is this going to be the case any longer? It won't be the case.

Some of our competitors that are in this same kind of business we are, just to give you an idea of the mix, are: Bernan Publishers of Lanham, Maryland; CW Publications of Rockville, Maryland; Accent Publishers of Silver Spring, Maryland; Gist Works of Indianapolis, Indiana; Associated Publishers of Phoenix, Arizona; Reference Publishers of Austin, Texas; NTC Publishing, Lincolnwood, Illinois; the Hein Company of Buffalo, New York; and others. I just wanted to make that point of how many businesses have established what they are doing through the present Title 44 and who will be very much troubled by the

dismantling of the present Title 44 of the present Government

Printing Office.

I would mention that we have a Web site of some 34,000 pages, including the PRF of the Government Printing Office, which they don't have on the Web as yet. Through this we make many international sales, which seem to be increasing due to the increased interest in the Internet. This would also be threatened by the changes that the committee is looking at.

I am skipping part of my presentation, which is in the

printout—

The CHAIRMAN. It will all be part of the record.

Mr. CLAITOR. In order to cooperate and get to the end of it, I would like to say, summarizing, the drift of agencies doing their own printing instead of GPO is not in the public's interest because of overall greater costs to the public. It is also not in the best interest of my company and other companies who have built their businesses based on Title 44, and we have relied on it and complied with it, as well as it is not in the best interest of the Federal Depository Library system and thousands of Government and private employees.

GPO and Title 44 are working just great. Let's not trade this combination for a pig in a poke. There is plenty of work to be done on adapting to the electronic media, and my suggestion is to concentrate on this with GPO rather than dismantling of GPO

through removal of agencies' printing.

Thank you.

[The prepared statement of Mr. Claitor follows:]

PREPARED STATEMENT OF ROBERT G. CLAITOR, PRESIDENT, CLAITOR'S LAW BOOKS AND PUBLISHING DIVISION, INC. BATON ROUGE, LA

Good morning, Senator Warner and members of the Committee on Rules and Administration. Thanks for your kind invitation for me to testify and share with you information that I have about certain aspects of the Government Printing Office and related matters that are presently the focus of your consideration.

First, I would like to introduce myself, and give some pertinent background for my comments. I am Bob Claitor, President of Claitor's Law Books and Publishing Division, of Baton Rouge, La. As strange as it must seem for a Louisiana publisher, we have reprinted more than 1,000 GPO titles over the past 20-odd years, and some 600 or so of these titles currently available from us are listed on the price lists which I am now holding up for display. Some of these are current titles available from us or GPO(at the same price, by the way), and others are out of print GPO titles available from us only. We have GPO's Publication Reference File of some 32,000 pages on the Internet, also GPO's Occupational Outlook Handbook 1994-95 on our Home Page on the Internet. We provide these educational and research capabilities to the public free of charge on the Internet, and there's no duplication because GPO does not provide these services. Oh, yes, there is some duplication because Dialog of California provides the PRF for a \$75 registration fee plus \$15/hour for use. Since we've put it up FREE, there's little doubt that Dialog's business has gone down. We have more reprinted titles from GPO than any other U. S. publisher, and we also act as a Distributor for GPO by buying books from them at a discount, then reselling them.

So, this is where I'm coming from with my testimony as follows.

Title 44 of the US Code specifies that all substantial printing of government agencies will be done by GPO. Lately the Dept. of Commerce has disputed this,

and done some of their printing thru NTIS combined with the private sector. They have recently announced that they're going to do even more thru NTIS combined with McGraw Hill, including the U. S. Industrial Outlook, which has previously been done with GPO for many years. We and other publishers/distributors have thousands of subscribers to this title, and we will lose this business if the

NTIS/McGraw Hill deal comes to pass.

This shift of printing away from GPO is NOT in the public's interest. Some factors involved: greater cost and less utility to the public in the long run, great damage to the Federal Depository Library System, greater cost to produce books in the long run, McGraw Hill and others to profit at the public's expense on work done by Government workers with appropriated funds, destruction of distribution channels already established with retailers such as ourselves, destruction of distribution channels already established with reprint publishers such as ourselves, public has to pay for profits to McGraw Hill and others instead of have free use of the books thru the Federal Depository Program, loss of jobs to GPO and Federal Depository librarians and others, reversion to more costly production thru individual agencies printing instead of very efficient GPO printing . . . and on and on.

Since we are the largest reprinter of GPO books, and one of the largest distributors of GPO books bought for resale (all of this in accordance with the wisdom of the framers of T44 as presently structured), with the largest GPO presence on the Internet, our insights on these matters before the Oversight Committee would

probably be of interest to the Committee.

We reprint GPO titles such as the Occupational Outlook Handbook 1996-97, U. S. Government Manual, Statistical Abstract, Congressional Directory, Internal Revenue Cumulative Bulletin, Tax Court of the U.S. Reports, and many other GPO titles. The books are in the public domain, thus we are allowed to do this reprinting. Furthermore, as part of GPO's charter in T44, they are encouraged to provide "plates" to the public to encourage the "widest possible dissemination of government information," and thus in the long run to provide these government editorially produced books to the public at the very lowest cost. We sell at the same price as GPO, and some of our competitors in this arena sell even lower. THIS PLAN IS WORKING! Over 100,000 copies of Occupational Outlook Handbook are sold by reprint houses like ourselves in total compared to some 30,000 or so sold by GPO. Not to be misleading, this is probably the best title, but others are close. Many are sold as low as \$8 each to school systems compared to GPO's price of \$32. So, the public is benefiting, and the present T44 plan is working. Would the proposed plan with McGraw-Hill on the U.S. Industrial Outlook work out this well? Certainly not, and Commerce, NTIS and McGraw-Hill would be taking double dips out of the public's pocket unnecessarily.

Some of our competitors are Bernan Publishers, Lanham, Md.; CW Publications, Rockville, Md; Accent Publishers, Silver Spring, Md.; Gist Works, Indianapolis, Ind.; Associated Publishers, Phoenix, Ariz.; Reference Publishers, Austin, Tex; NTC Publishing, Lincolnwood, Ill; the Hein Co., Buffalo, NY; and others. All of these would be very adversely affected by a change in the law that

we have relied on to build up and invest in our businesses.

We and hundreds of other dealers around the U.S. buy books from GPO at 25 percent discount for resale. The customers list of the GPO would reflect this fact. And this too is to the benefit of the public. In this regard, we have GPO's Publications Reference File on the Internet to the extent of about 32,000 pages, which reference source GPO itself has not provided, and which was only available previously thru Dialog at \$75 registration fee and about \$15/hr to use. Thru this, we sell GPO books and earn the 25 percent discount for the most part. Interestingly enough, a large segment of this business comes from abroad, and seems to be expanding rapidly as the world zeroes in on the Internet. The new plan to dismantle part of GPO would also have a deleterious effect on this resale activity.

It is interesting to note that government printing contractors are backing this dismantling. Why is this? It seems that they're not making enough money thru the very efficient bid process achieved by GPO, but they would make a lot more thru relatively inexperienced bid proposals from individual Agencies. This

smacks of the old days when T44 was set up precisely to combat this very problem. Let's not go back to a lesson we have already learned.

We are joined in our efforts to protect the GPO by the Federal Depository Librarians, the American Library Assoc., Federal Documents Librarians, the GPO itself, other publishers/distributor/printers similar to us, and many other intercepted position.

ested parties.

The Dept. of Commerce and NTIS have already combined with a private publisher to produce a book entitled BIG EMERGING MARKETS in violation of T44. What this deal accomplished was to take information already paid for by taxpayers with APPROPRIATED funds and provide it at no cost to a private publisher, which then sold it to the public at a higher price than would have been charged by GPO's sales program. Reprinters and distributors were left out.

This deal hits the taxpayer three times. First, the cost of the large number of government employees who worked on the book. Second, in the pocketbook for those who purchase a copy at an inflated price. And third, when citizens walk into their local library and find either no copy, or a copy paid for out of a depository library budget(many of which are supported at public expense).

Summarizing, the drift toward Agencies doing their own printing instead of GPO is NOT in the Public's interest because of overall greater cost to the Public. It's also not in the best interest of my company and other companies who have built their businesses based on T44 and we have RELIED on it and COMPLIED with it, as well as it's not in the best interests of others as I have just explained. Let the PUBLIC be served on what is worked out, not individual Agencies, NTIS, McGraw-Hill, or government printing contractors. GPO and T44 are working just GREAT—let's not trade this combination for a pig-in-a-poke. There's plenty of work to be done on adapting to the electronic media, and my suggestion is to concentrate on this with GPO, rather than the dismantling of GPO thru removal of Agencies' printing.

This completes my testimony for the time allowed. Any questions? Thank you.

The CHAIRMAN. Thank you. That is a very clear statement. Now, Mr. Cooper?

TESTIMONY OF BENJAMIN Y. COOPER, VICE PRESIDENT, GOVERNMENT AFFAIRS, PRINTING INDUSTRIES OF AMERICA, ALEXANDRIA, VA, ON BEHALF OF THE PRINTING INDUSTRIES OF AMERICA

Mr. COOPER. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, I want to thank you for giving the Printing Industries of America the opportunity to provide our views on Federal Government printing and revisions to Title 44.

While we appreciate the opportunity, I would not be candid if I did not express some frustration with the fact that PIA and others of us before this committee have testified numerous times about the need to take some action with regard to Federal Government printing and publishing information policy. We recognize that this session of Congress leaves little time to consider legislation to revise Title 44; however, we hope we can begin work now to have such legislation ready to go for the next Congress.

We do not believe printing in the main issue to be considered with regard to Title 44. The truth is that to the extent the Federal Government needs printing, the private sector will generally do it. Granted, some agencies persist in the notion that somehow they can buy printing equipment, buy paper, and train employees to print less costly than the private sector, but inevitably the private sector gets the majority of the work.

No, Mr. Chairman, the main issue is how the American people receive information. We believe the main function of the Government Printing Office is the Superintendent of Documents and that the process of print or other information services must flow from the information dissemination decision. Ordinary citizens have a right to know what their Government is up to. They have the right to access that information easily and without additional cost since they are already paying for it. If you ask any citizen of the United States where to get Government information, they will say the GPO.

The problem, therefore, with the decision by a number of executive agencies to go into the printing and publishing business and to bypass the GPO is not only the effect it has on contracting out, but the effect on the Superintendent of Documents. If an agency such as the General Services Administration produces its own material or contracts for that material without the GPO procurement process, the necessary copies generally do not go to the Superintendent of Documents. Even in cases where arrangements for copies are made, there is no certainty that the necessary copies arrive.

This committee and this or the next Congress will have to resolve a fundamental question: Will the public be informed by the Congress or the executive branch? Failure to take action on this important question will mean that the Congress has yielded

that responsibility to the executive branch.

I will turn briefly to the issue of Federal Government printing and print procurement. There is no need for an agency of Government to be in the printing business. There is no printing job that cannot be procured from the commercial sector at a competitive cost. This even includes high-level security printing. As we have stated many times, the United States Government manages to buy sophisticated computer and weapons systems from private companies, but somehow believes that printers are not capable of being secure.

Despite the proven ability of printing firms to produce work for the Government at a cost significantly lower than in-house production, Federal agency printing plants continue. Rather than ask you to summarily close all these plants, we are simply asking that you give the agencies 18 months to justify themselves or be closed. As it stands now, neither the JCP nor OMB has any idea how much printing equipment the Government has or where it is kept.

Frankly, we are surprised that OMB would not have already taken this action, which we have recommended to them on many

occasions.

As a final comment, the printing industry and the communication industry as a whole is changing faster than

change can be documented. We are in an explosion of information technology equal to the time of the invention of movable type. Title 44 is a painful anachronism. The Government's approach to information is similarly dated. This committee has an opportunity to set a course of public information to take advantage of the present and future. We will offer our assistance to you as you consider these suggestions.

Thank you very much.

[The prepared statement of Mr. Cooper follows:]

Prepared Statement of Benjamin Y. Cooper, Senior Vice President, The Printing Industries of America, Alexandria, VA

Mr. Chairman and members of the Senate Rules Committee, my name is Benjamin Y. Cooper. I am the senior vice president of the Printing Industries of America. PIA is the nation's largest graphic arts association with 14,000 members. We appreciate this opportunity to present our views on Title 44 and federal government printing.

These hearings come at a critical time in the history of the Government Printing Office, Title 44, and we believe, this Committee. I have been with PIA for 18 years. For 18 years we have discussed the exact same issue with the exact same results. We still have the same problems; we still have the same arcane and anachronistic

law; and the solutions still seem obvious to many.

Some federal agencies have a strong desire to operate independent of the Government Printing Office and the Joint Committee on Printing. We can understand these interests. Some of these agencies have established their own procurement programs, duplicating the GPO procurement system. Some agencies have gone into the printing business directly, even to the point of advertising their services to other federal agencies. Recently, one federal agency has sought a Justice Department opinion to allow them to by-pass the GPO system. They were apparently successful. Perhaps the most humorous episode was the effort by some executive branch agencies to define printing by excluding copying and duplicating from the definition.

None of these episodes serve the tax paying public.

We are aware that there are members of Congress who wish to close the Government Printing Office and those who would argue in favor of keeping it open. We wish to make it very clear from the beginning that there is no printing job performed at the Government Printing Office or elsewhere in the federal government that could not be contracted out to the private sector. Such privatization could be done without sacrificing timeliness, quality or security. We are totally confident that such contracting out would also save the government money. Frankly, Mr. Chairman, we have never understood why a government which can contract out complex weapons and computer systems for national defense and security cannot have confidence in its ability to contract out printing.

As we have indicated in the past, despite our firm belief that the GPO can be closed and work contracted out, we do not believe the Congress should take such an action without a thorough evaluation of its needs and information plans for the future. In that regard, we wish to make some specific suggestions with regard to the Government Printing Office, Title 44, and federal government printing in general.

We recommend that the Congress undertake a study to evaluate its printing, publishing and information needs.

One of the problems associated with closing the Government Printing Office is that Congress has not evaluated what its future printing and publishing needs are. The purpose of the study would be to assess the needs of Congress to communicate internally and how Congress should work with the Executive Branch to assure the proper distribution of government information to the public. As an example, a decision by Congress to change the means of production of the

Congressional Record and Federal Register from a printed product to an on-line product significantly changes the equipment needs of the GPO as well as the pre-press requirements to produce the publications. It is likely that an increase in the electronic production of these publications would result in a decrease in the print requirements. Such changes likely would change the equipment needs to produce congressional material. The study would not have as a prime purpose to analyze the efficiency of the GPO but to decide what are the mission requirements of the congress. Since the Congress is basically producing material the same way it has for decades, a review of the mission is overdue. It is likely that one of the results of the study would be a recommendation that congress does not need to print as much material as it currently prints. At the very least, the study would enable Congress to develop a plan for its future needs.

We recommend that the Congress implement some controls over federal agency activities in printing, publishing, and information to assure that the public is informed.

We often forget that the primary mission of the Government Printing Office as well as federal agency printing plants is to produce public information. Historically, the control of public information has been in the hands of the Congress since it is the body elected by the people. We believe the Congress cannot surrender this important link with the voters. Unfortunately, if the Congress does not control the presses or at least have a system of determining how public information is produced and disseminated, the public information network may be damaged. Regrettably, executive agencies are not always eager to provide taxpayer financed information to the public.

We tend to think of information in terms of the new technology such as webs and the Internet. While these are exciting opportunities, the vast majority of the American people continue to receive their information through print, the way they have for decades. However, even as more people become comfortable with use of on-line access, the Congress must still hold the key to that access to assure

that it is not limited through lack of oversight.

We recommend that every federal agency be required to submit an annual plan for printing, information and publishing. This plan should be submitted as part of the budget request for the agency.

The plan should indicate how the agency plans to fulfill its responsibility to inform the public, how it intends to produce the work, whether in-house or by contract. If the work is to be performed in-house, the report should indicate the equipment required for the work and the cost of such work.

The current system is biased against public information. Also, agencies develop a sense of ownership over the information they produce. An annual planning process would help the agencies focus on the mission requirements rather than proprietary needs of who produced the information and whose printing press

was used.

Currently, there is no planning requirement for printing, publishing and information by federal agencies. Further, no one has information about printing or duplicating equipment or facilities owned by any federal agency. We believe there are as many as 800 printing and duplicating facilities. Over the years, the various plants have operated with little oversight to the point that there is no reliable information about the number of such facilities or what equipment is owned. A plan submitted by the agencies could help the Executive Branch and the independent agencies improve the utilization of existing equipment, better match equipment with printing requirements and help identify procurement opportunities. Some have speculated that federal printing and information expenditures may exceed three billion dollars. Regardless, we know the number is significantly above the approximately one billion dollars of printing handled by the GPO. The savings opportunities through better management of these requirements could result in significant budget savings.

We recommend that an appropriation be made specifically to assure that public information is made public. Congress should specifically appropriate funds for the Superintendent of Documents/Depository Library function.

Such an appropriation would assure that the agency producing the information is not reluctant to provide material through the Superintendent of Documents because of cost considerations.

Existing waivers for agency printing plants should be subject to a sunset provision.

Similar to the concerns raised above, there is a need to know what federal printing and duplicating facilities are in operation and which ones should be continued. With an eighteen month sunset provision, the Joint Committee on Printing could have an opportunity to determine if the need for the facility continues to exist and to terminate those operations which no longer meets the original mission. This would also give the Joint Committee on Printing the chance to consolidate facilities to assure greater efficiency. It should be a goal of this sunset provision to close any printing operations other than self service copy centers (unmanned).

The Congress has approved the establishment of printing facilities by statute in addition to the facilities approved the Joint Committee on Printing. The facilities should be subject to a sunset provision with the goal of repealing the statutes and closing the facilities with in 18 months.

The current regulatory authority over Executive Branch printing granted to the Joint Committee on Printing should be repealed and that authority should be granted to the Government Printing Office.

We recommend that the rulemaking authority granted to the Joint Committee on Printing under Title 44 be transferred to the Public Printer.

There has been a court challenge (USINS v. Chadha) over the issue of legislative veto. It is generally accepted that the opinion of the court in this challenge would apply to the rulemaking authority of the Joint Committee on Printing relative to Executive Branch printing. The same restrictions do not apply to the Government Printing Office since it is not a committee of Congress and is headed by a presidential appointee. In truth, the rulemaking authority of the Joint Committee on Printing is more symbolic in that the members of the committee are often not familiar with the nature of the rulemaking.

The Congress and the Executive Branch should implement some printing and contracting reforms to broaden the use of requests for proposal or request for quotation by federal agencies to better assess the services available in the industry.

The printing industry is changing rapidly. One of the key changes in the printing industry is the explosion of digital technology. While the industry is still dominated by "ink on paper" technology, we are seeing the emergence of a new printing industry. This new industry manages digital data and printing is but one of the output options. A number of printing companies are already participating in this new industry and many more are joining them everyday. I wish to offer the following quote from the executive summary of PIA's landmark study "Bridging to a Digital Future":

The printer's role in the digital future is yet to be determined. We foresee a blurring of the differences between printers, broadcasters, software and hardware developers, and others. The term "printer" with its implied "ink on paper" will be increasingly inappropriate. The traditional prepress services are evolving into a distinctive imaging business with the potential of feeding a wide range of media, only one of which will be print. . As much as 50 percent of the sales revenues of printers in the year 2000 may be from products and services they do not produce today. Printers are already producing alternative media, with many involved in software production, CD-ROM production, data and text storage and print on demand, and a small percentage in video production.

Currently, it is difficult for federal agencies to take advantage of the broad array of technologies, data management skills, and information management of printing companies because federal laws tend to pigeon-hole printers as limited to ink on paper and limit the application of digital technology to companies which may not be printers. The government needs to be in a position to invite

companies to submit ideas to improve the information is handled. Many of these

companies are printers.

I raise these issues because of the implications of technological change on public information. There are two circumstances which will compromise the role of congress and the federal government in tapping this industry's potential for providing public information services: an investment in today's technology by government print shops or by failing to provide a legal framework for the future. We continue to believe the best way to provide information services to the

government is through the private sector.

One of the successes of the GPO through the years has been its centralized procurement system. While this centralized procurement system should continue to evolve and improve, the essence of this program should be retained. Currently, more than 10,000 printing companies are on the list of potential GPO vendors. Most of these companies do not receive large government contracts. The companies which compete for an win these contracts are small companies in virtually every city in the nation. While there are some companies which specialize in government contracts, most use the work to utilize unfilled press time and generally at a very favorable cost to the government. It is the single most successful small business contracting system in the federal government.

The issue of contracting out printing has often drifted to some fairly arcane arguments about constitutional law and whether the legislative branch should be procuring work for the executive branch. There are times when you have to look at something and ask the simple question, "Is it working?" This system is work-

ing. The less we attempt to fix it the better off we will be.

Mr. Chairman, these remarks reflect our views on what we believe would represent the best reform for the federal government printing, publishing and information system.

Senator FORD [Presiding]. Thank you very much, Mr. Cooper. Senator Warner had to leave. As we find ourselves in here so many times, even with the computers, the communication aids and all that, we still find two or three committees, as you know, going at the same time, and we are obligated to be at all of them. If we all could work out cloning, we would have it made.

There is a thread in the testimony of all four of you this morning that something has to be done. That is number one. Number two, what is it that we do? "If it ain't broke, don't fix it" is part of the testimony here this morning.

Let me ask just two questions here. We have a few more

minutes before we go to cloture.

Mr. Claitor, I like your statement. I have read it from pillar to post, as they say, and you have got a lot in there. I think all of you have. But I think all of you would agree that the American public has a basic right now—and I hope that we don't lose sight of that—to Government information. They have paid for it, and we are here to see that they get as much from the dollar as possibly can.

The Depository Libraries are concerned and worried. I see the information coming from these libraries and local people going to the libraries and up-links and down-links and all these things that are available out there now. We need to encourage the use

of it rather than discourage it.

However, there seems to be some disagreement over the issue of whether Government information can become a commercial product. I have a problem with the very idea of giving material from the Federal Government to some publisher to copyright it. We are going to jerk somebody in over that, and I don't know who it is, but it may be me and it may be the Attorney General. I don't know who it is, but we are going to jerk somebody in over giving copyrights of Federal Government documents. That just is not right. The only time I ever heard of that was when Franklin Roosevelt in World War II got all the tire people together and said we are running out of rubber and we have to have synthetic rubber; you have got 12 months. They put them on it. They did it in 11 months, and he gave them the patent. So that is the only time I have known the Federal Government to give it away.

It seems to me that Government information can become a commercial product if value is added to it. Some of you have even been able to make basic Government information a commercially viable product by simply reproducing—reducing the cost of production below that of GPO or republishing it once it is no longer readily available.

My concern is how do we determine when information is basic, what I refer to I guess you would call "plain vanilla", and must be provided free of charge, and when it has been value-added so that it is now a commercial product.

Would any of you like to comment on what you do to add value to Government information, and why your product should be distinguished from the "plain vanilla" version that the American people have a right to access at no cost? Does anybody want to take that on?

Mr. MASSANT. Well, I would suggest that one of the concerns is to try to make the information easily usable by all of the public, the Government information. Currently, a lot of the information that is made available by agencies is used by those agencies and the constituencies of those agencies, so the information is usable. I think where it becomes more difficult is when we look at then having the Government—and I think this is a risk—having the Government then taking that material, that information that is usable for a group that, you know, really needs that information, and then trying to make changes to that information to provide it to everybody. I think that is really the role of the private sector.

So the Government should make its information available, and clearly the Federal Depository Library Program has been a very important program to provide access to information to the public. But that balance between how far the Government should go is where I think the Government should show restraint and should value the diversity of sources of public information.

Senator FORD. Once the information is out there, you as a commercial entity can take it then and embellish it or whatever—Mr. MASSANT. Add value to it, yes.

Senator FORD. Add value to it, and then go on with it. I have no problem with that. I have no problem with that. It is the idea that we have got 13 executive agencies here that all have their little printing fieldom, and then they advertise for printing. So

we have gotten to the point where they are breaking down. You talk about the Joint Committee on Printing—well, it looks like we are getting ready to bust that up, and we won't even have it

anymore.

So with all these things we are trying to commercialize or privatize or reduce Government, and when we do, we are robbing those who are entitled to certain things in the Federal Government. We are denying them that opportunity. Somehow or another I am going to tilt on the side of giving the public the information and still try to be fair to you.

Does anybody else have any comment they want to make on

what I have just talked about?

[No response.]

Senator FORD. Well, witnesses at our previous hearings effectively described the effects of copyright or copyright-like, I think was some of their language, restrictions on the public's ability to access Government information. Each of you I guess represents what I would call the commercial public. What is the impact on your business of such restrictions? And can you give the committee some specific examples of copyright agreements or other restrictive arrangements that have affected your ability to access basic Government information?

Mr. Cooper, do you want to try that one?

Mr. COOPER. Well, Mr. Chairman, my members are in the printing business, and we don't seek or utilize copyright. We do printing for Federal agencies, and copyright is not an issue. The only comment I would have about it is that I think the bigger problem isn't the copyright. The bigger problem is that agencies are doing their own business. If you are sitting in Louisville, Kentucky, you don't have any idea where to go. So it isn't—I don't see the bigger problem as a copyright restriction. I see the bigger problem as not knowing who is doing what. So if you want information on agriculture production, do you go to GPO, the Department of Agriculture, to the FDA? You don't know where to go. There should be one source.

So copyright or no copyright, if you can't find the document, it is similarly restricted. We don't concern ourselves with

copyright of Federal information.

Senator FORD. Do any of you have any problems with

copyrights?

Mr. Massant. Yes. We are totally against a Government agency claiming copyright on its information. I think what that does is reduce the access. It restricts use downstream. And we are concerned with some of the executive branch agencies having copyright-like restrictions on their information on which they charge royalties or they allow just a limited number—for instance, in the Department of—

Senator FORD. Really, you are talking about one agency, aren't

you?

Mr. MASSANT. For the most part, yes.

Senator FORD. That is the one that is going to be hauled in.

Mr. MASSANT. Yes. And that agency does essentially—is acting like a business. I mean, they are a Government agency that is starting to act like a business, and it is just, you know, bad policy, and I think it restricts access by the public.

Senator FORD. One of the things that disturbs me about what you just said is the fact that you can have the private sector, which we want to encourage and help and do all the things that we ought to be doing or should be doing, have an opportunity to write about some area of Government and then in turn copyright it. Then you put it out in the book, and you have got three or four chapters that are copyrighted by them. How are you going to determine what you can and cannot copyright? It gets to be a mess. But somehow or another, they have convinced some right good names that this is what they ought to do or they can do it.

I think you had better be careful—this is not the time to be careless in that business. We held many hearings and next week's hearing is the final one. That will be the last one, I think, and we are at a point then where we are going to make some decision.

The biggest problem I see is that there is no control. Now that you are having all the agencies print, what do they give to GPO?

What do they have so that we could disseminate?

I had a minority group in here when we had hearings last time on GPO, and they testified on their ability to bid and be able to reprint, and to put 29 minority members to work. That is what we ought to be doing, and let GPO do it, because it all has to come to a central point. I talked to an older fellow. He said he no longer needed to come to Washington to wine and dine an agency because the information came to him and he could bid on it now from—it was Cincinnati, not Louisville, but that is close. But, anyhow, he could bid. So that is the way it goes. That is the way it should be.

Now we are beginning to see the agencies dominating all these little places and not getting the information out to the

Depository Libraries.

Mr. Cooper, you have an italicized section here on the second page of your testimony: "We recommend that the Congress implement some controls over Federal agency activities in printing, publishing, and information to assure that the public is informed."

Now, we have been trying to do that. We see now that we have some folks here in Congress trying to dismantle it. Do you have any suggestions for us to prevent the dismantling of our control? The Joint Committee on Printing apparently is going to be obliterated here before October 1st. That is the way it looks. I am going to have a little money over here, and they are going to have a little money over there, and the twain shall never meet again. I need your suggestion.

Mr. COOPER. Well, coming from my perspective, I will make what I see as a simple suggestion. I have learned in 23 years here that there is no such thing as a simple suggestion dealing with the Government.

Senator FORD. A simple suggestion, one that sounds good, you can't implement.

Mr. COOPER. That is right. That is what I have got.

What I would recommend, what we would recommend—and I mentioned this in the oral statement, too—is that you simply ask the agencies to report what they have—printing, duplicating, I don't care what you call it. If it comes out on paper, it is printing. Report what they have, what pieces of equipment they have, how they are going to use it, and how long they need it, and give them a date certain by which it is to be terminated or rejustified. And I think if that is done, probably through the appropriations process, and you identify the plants out there, close the majority of them, the problem disappears. If an agency doesn't have a printing plant, it isn't going to do its own printing. And that is just a simple fact.

We right now allow agencies to buy whatever they please. There is simply no management control over it. And they view this as this is part of their right as running an administrative agency. Well, printing plants, printing presses, even sophisticated copying machines are running in the \$400,000 and \$500,000 range and up. And if you look at some agencies that have literally hundreds of these pieces of equipment, we are not

talking about small dollars.

So all you have to do, in my mind, is to get a simple accounting statement of what they have. Can it be justified? If it is, then keep it. If it isn't, then close it. And that can be done in a short period of time.

Senator FORD. Mr. Claitor, do you want to comment on my

last question? You have to jump in around here.

Mr. CLAITOR. Okay. I want to go back to what we are talking about just a little earlier and your question about how things would work with the agencies publishing their own books. We have an example of that with the "Big Emerging Markets" book. I know you are familiar with that, but probably some of the people here are not. The Department of Commerce worked with NTIS and they published that book, and they copyrighted it. And so we have an example of how it is going to work further down the line if we let the agencies do their own work, and it is pretty frightening. Like there is a copyrighted book that the information was prepared with appropriated funds by Government workers, and it went down the line to those people. The Depository Libraries I understand are now going to be provided with copies of that book, but that was a lot of pushing and shoving around before that came to pass.

If somebody wants to buy that book from the Government Printing Office, they are unable to do it. If they want to know about the prospects in foreign countries to set up their businesses, they don't deal with the Government Printing Office. They have to deal with the Department of Commerce and NTIS. So, anyway, we have an example before us of how the system might work and whose ox is being gored and so forth right there with that sample. I just wanted to mention that.

Senator FORD. Yes, I thank you, Mr. Claitor. The reason that—you said a lot of pushing and shoving going on. They are now going to provide the books to the Depository Libraries and so forth only because of these hearings. Only because of these hearings and because you all are here trying to help us figure out

a way to make it work.

We are about ready to hit the deck here, and I apologize again. Does anybody have any statement they want to make, anything in addition they want to make to anything they have said? We have a minute or two, and then I am going to have to head for the floor.

[No response.]

Senator FORD. The committee will submit questions to each of you which will be for the record and ask that you return those in writing as soon as possible. Timely responses to the questions are very important.

[These responses are included in materials submitted for the

record.]

Senator FORD. Again, I apologize for the work schedule around here, but there is very little any of us can do about it. Senator Warner has some questions that will be submitted to you, and hopefully we will have answers to those questions by our next hearing. And at the next hearing we can have the benefit of your thoughts and comments.

This hearing is adjourned.

[Whereupon, at 10:11 a.m., the committee was adjourned.]

PUBLIC ACCESS TO GOVERNMENT INFORMATION IN THE 21st CENTURY

WEDNESDAY, JULY 24, 1996

U.S. SENATE,
COMMITTEE ON RULES AND ADMINISTRATION,
Washington, DC.

The committee met, pursuant to notice, at 9:35 a.m., in Room SR-301, Russell Senate Office Building, Hon. John Warner, chairman of the committee, presiding.

Present: Senators Warner, Ford, Pell, and Moynihan.

Staff Present: Grayson Winterling, Staff Director; Edward H. Edens IV, Special Assistant to the Chairman; Bruce E. Kasold, Chief Counsel; Jennifer Joy Wilson, Special Adviser to the Chairman; Virginia C. Sandahl, Chief Clerk; Mary Louise Faunce, Administrative Assistant to the Staff Director; Kennie L. Gill, Democratic Staff Director and Chief Counsel; and John L. Sousa, Democratic General Counsel.

The CHAIRMAN. Good morning, everyone. Unfortunately, I have to depart in a few minutes to go to the Environment and Public Works Committee for purposes of a quorum and a markup, but I shall return. In my absence, our distinguished ranking member, my good friend the senior Senator from Kentucky, will preside.

Senator FORD. That shows complete trust.

The CHAIRMAN. That is correct. And may it always be that way.

Senator FORD. It is not going to change as long as I am alive,

anyhow.

The CHAIRMAN. This is the fourth hearing in a series of hearings on public access to Government information in the 21st century. Depending on the record as we compile it, we may have one more hearing early in September.

One major problem Congress must resolve is updating Title 44 for the digital age, and that is, how do we maintain general

and equitable public access to Government information?

Our first hearing on June 18th focused primarily on the Federal Depository Library Program, and I note the presence again today of Mrs. Simon, who was a witness in this series of hearings.

The second focused on future trends in communication and information technologies and the ability of the American public to use them.

In the third hearing, we received input from the information, production, and distribution business sectors.

Today we will hear from representatives of the judicial, executive, and legislative branches concerning public access to Government information. Today's witnesses will identify ways to improve compliance with existing public access requirements, address constitutional questions surrounding Title 44, and potential conflicts with other statutory provisions, and offer suggestions regarding the use of advances in communication and information age technology.

As elected representatives, we have an obligation to ensure that the American people have equitable and reasonable access to information concerning the workings of our Government. Indeed, the very foundation of a representative government is an informed citizenry. I am committed to ensuring that all Americans have access to information which is produced at taxpayer expense for the U.S. Government.

As Thomas Jefferson once stated, "If a nation expects to be ignorant and free, it expects what never was and never will be."

The fundamentals underlying Title 44 are as important, if not more important, to us today as they were nearly 100 years ago when Title 44 was first enacted, and that is astonishing, 100 years. However, because of non-compliance and the dramatic explosion of electronic technologies, Title 44 needs to be updated now so that we are prepared for the 21st century.

As an outcome of these hearings, the committee will produce a report which will serve as the basis of forthcoming legislation to amend and update Title 44 to ensure all Americans have ready

access to Government information well into the future.

Senator Ford?

Senator FORD [Presiding]. Thank you, Mr. Chairman.

Let me join the chairman in welcoming our distinguished witnesses today, and as the chairman said, this is the fourth in a series of hearings by this committee focusing on the responsibility of Congress, and this committee in particular, to ensure public access to Government information in the 21st

century and beyond.

The very strength of our democracy—and I have refrained from quoting Jefferson this morning because I knew my chairman would, so I won't impose a quote on my friends here. But the strength of our democracy depends upon the continued access by the people to Government information, regardless of the format in which that information is produced. The technology advances of the turn of the century provide both opportunities and great challenges to the right of the people to access Government information produced with their tax dollars.

In the past, this access was relatively easy to ensure. Print was the only means by which Government information was made available to the public. As long as GPO was the central producing agency for printing, whatever information was printed was disseminated to the public at no fee through the Depository Library system.

As all branches of Government have taken advantage of the new paperless technologies and certain agencies have declined to either procure their printing through GPO or provide information to the Depository Library system, the public's right to that information has been jeopardized. And I am certainly going to get to the bottom of why one agency can even give copyrights of Government information that is paid for by the taxpayers.

These hearings have clearly demonstrated the need for a strong, accessible, no-fee system of distributing Government information to the people. I am convinced that the Depository Library system continues to provide the most efficient and

effective system for this distribution.

I am becoming increasingly concerned, however, that executive agencies are circumventing Title 44 and GPO and consequently denying the public access to information they have paid to produce. We have heard of numerous examples of such in previous hearings, and we will get a chance to hear from one such agency today.

I am particularly pleased that we have before us today representatives from OMB and the Department of Justice. I am hopeful that they will clarify for this committee the position of the executive with regard to whether executive agencies must conform to Title 44 and participate in the Depository Library

Program.

Finally, let me commend the chairman for focusing his attention on what I believe is one of the most important responsibilities of this committee, and that is ensuring the public's right to Government information. I stand ready to work with the chairman and others and the executive and judiciary that this right is secured in an efficient and constitutional way.

Our first witness today is the distinguished Judge Royce C. Lamberth, United States District Judge for the District of

Columbia.

Judge, we are delighted that you have come to be with us today, and we will put your total statement in the record, and you can highlight, however you wish to do it.

TESTIMONY OF HON. ROYCE C. LAMBERTH, UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA

Judge LAMBERTH. Thank you very much, Senator Ford.

I am a United States District Judge here in the District of Columbia, and I am also a member of the Committee on Automation and Technology of the Judicial Conference of the United States. Of course, the Judicial Conference is the policy-making body of the Federal judiciary. I am delighted to be here today to present the comments of the judiciary on the topic of public access to Government information in the 21st century.

We have over 2,000 judicial officers performing trial and appellate court functions in 94 districts and 12 circuits across the country. Litigants in 1995 filed over 1.2 million civil, criminal, bankruptcy, and appellate cases. And so we have a large volume

of information to deal with.

We have two categories of information in the judiciary. The first is information produced by the judiciary, such as written case decisions, and this has been available in electronic format for some time due to efforts that we began. We also have wide public accessibility to the data through electronic bulletin board systems, through the Internet, through private legal publishers, through automated voice response systems, and through public counter terminals.

The second major category of information we have is information submitted from outside the Third Branch, generally by the litigants, such as pleadings and briefs which must be retained in those 1.2 million cases a year. Primarily that is on paper today. We are starting an electronic case files project to examine the cost and requirements of converting those documents to electronic case records, and we are starting some experimentation that I want to mention today.

The information submitted from the public and from litigants comes from a variety of sources with very different technical capabilities. Of course, many are pro se and many are impecunious and do not have the ability to produce things in electronic format, so that is something we have to deal with.

As of today, these documents are the most frequently provided kinds of information, from our case files and we are beginning to look at other methods for dealing with the large volume of information we have.

We have a long-range plan for the Federal courts which was approved last year, and it recommended that "[t]he judicial branch should act to enhance understanding of the federal courts and ensure that the fundamentals of the litigation process are understood by all who use it. The federal courts should encourage feedback from the public on how successfully the judicial branch meets public expectations about the administration of justice."

In addition, we have forwarded from my Committee to the Judicial Conference what we call the "Long Range Plan for Automation in the Federal Judiciary," and in our 1996 update, we included as one of our goals ensuring "appropriate access to electronic information at a reasonable cost to the judiciary, other

government agencies, litigants, the bar, the public, and others,

as appropriate."

We think our goals and objectives demonstrate that we recognize the responsibility for disseminating Government information. We have made this responsibility a priority in our planning for the future. We have a successful record, we believe, of adapting technology to meet our information dissemination requirements, and we have a history that we have now established of being responsive to users of information and to the public in general within the judiciary.

We have, of course, continual challenges as we try to make that information reasonably accessible to all who are interested, some of whom will have the ability to access our information electronically and some who will only want to access the

information in paper files.

I have attached to my testimony a list of all our public access programs, but I would like to highlight just a few of them. We have a Public Access to Court Electronic Records system. We call it PACER, and we have 30,000 registered users today of PACER. We expect in fiscal year 1996 to process over 3 million requests for information through our electronic system called PACER.

We also have automated voice response systems which provide more limited case docket information, and we expect to respond to 4 million calls this year on our automated voice

response systems.

We also are beginning to expand our World Wide Web access. We have a judiciary Internet site. It is maintained by the Administrative Office of U.S. Courts, and it is currently

responding to over 10,000 inquiries per month.

In addition, all Federal appellate court slip opinions are being collected by a consortium of the law schools and provided free of charge to the public through each school's Internet Web Site, and we have cooperated with the consortium of law schools in getting those bulletin boards up and running so that they are available free of charge through Internet. Every appellate decision in the country now is now available free of charge on the Internet.

As we establish new projects, such as the electronic filing project that I just mentioned, we face a number of challenges. There are some complex issues. Our position is not fully settled on all of those, and some of these are in the experimental or pilot project type stages. But as we gain further information in hearings like this and in our own projects, we hope to use that information to plan for the future and for what we think is the inevitable explosion of electronic information facing the judiciary as well as the other branches of Government.

From our point of view, bringing Title 44 into the 21st century with a minimum cost to the taxpayer is a necessary and responsible action. The judiciary initiates annually about 30,000 printing jobs nationwide, with more than half of those directed

to the Government Printing Office. The judiciary spending for GPO work is about \$5 million each year, which accounts for the

majority of the judiciary's total printing expenditures.

In addition, the judiciary spends approximately \$2.4 million each year printing the appellate case decisions that have precedential value—the opinions I was just talking about that we call "slip opinions" from our courts of appeals. Since 1939, the judiciary has printed these slips through commercial sources under a delegation of authority from either the Joint Committee on Printing or the Public Printer. This waiver for slip opinion printing is absolutely essential to the integrity of the judicial process, and we believe it must be maintained.

Title 44 contains limitations restricting the ability to both produce timely materials and to serve the public in an efficient manner, and we have a couple of examples that we would cite to the committee of things you could review. For example, the \$1,000 limit on outside or "emergency" printing seems outdated

in today's fast-paced, tight-deadline-oriented society.

We think GPO needs authority to penalize vendors monetarily for non-compliance or for low-quality work, and to prohibit such vendors from continuing to obtain Government business. We think Title 44 and the procurement of printing jobs should be made consistent with other procurement regulations in the Government. For example, the standard printing contracts do not have non-performance clauses and other things like that that are standard in other Government contracts, and we would think the committee would do well to look at some of those issues, making some of those contracts more like the rest of the Government contracts that we see all the time.

I do want to mention the Federal Depository Library Program because it is important to the judiciary as well. We have 18 Federal judiciary libraries participating. Those library collection's are used by judges, by law clerks, by U.S. attorneys, by public defenders, by members of the bar and pro se litigants, and, to a lesser extent, by the public at large. Broad public access to Government information as required for the Federal Depository Library Program participation does cause us some problems because it has to be balanced in light of our current efforts to improve security for judges and for court staff in Federal courthouses. The Federal Depository Library Program requires a public access personal computer in each library, and that may require libraries to divert fundings from other priorities to meet this requirement. But I will say I walked down to our own Depository Library in my building yesterday afternoon and walked in to see how that would work if I were just coming in as a member of the public, and I thought it was quite a valuable experience to see just what is accessible through our library collection in our building to members of the public. Congressional Record material and other really valuable legislative history materials and things like that that are very

useful to the judges, of course, as we try to interpret some of these statutes that are passed up here, but also very valuable to members of the bar and others who are trying to research things like legislative histories, in particular, and things like that.

Senator FORD. Let me interrupt just a moment. I apologize for that, but you give a valid question, at least to me. When you are ready to look at various and sundry cases, you would have to go to the shelf and pull the book out. Can you now call that up on your computer?

Judge LAMBERTH. I can. We have a computerized—

Senator FORD. Which would expedite your ability to make decisions, and justice delayed, you know, is justice denied. That

might help some.

Judge LAMBERTH. Absolutely. And I find it very useful to have a terminal right on my desk with access to a great deal of this library material now. Even more valuable than to me, my law clerks have it on their desks, and as you probably expect, they are even more computer literate than I am. We have done very well in the judiciary with our computerized legal access material.

Senator FORD. I might say to the judge that I have an 11-year-old that sends me e-mail from his basement. I haven't figured out how to answer him yet.

[Laughter.]

Judge LAMBERTH. I think as we move away from print and toward electronic information, though, we have to have a well-thought-out and incremental transition, because there are people like you and me who are not going to be as conversant as our 11-year-olds and our law clerks. And we have got to do it with rapidly changing technology, but we have got to do it in an incremental way that makes sense.

Government information I do think is at risk of being retained in out-of-date electronic formats. Legal researchers often look to historical documents such as legislative histories and case law precedents, and we think stable, retrievable formats are crucial to such research. So as we migrate toward publishing Government information in electronic format, we think to be successful there are five steps that the committee really ought to focus on:

One is standards for electronic information and software have to be developed.

Two is a helpful, well-staffed central help desk with phone lines should be provided by GPO. We do that now for our computerized legal research, and we get a lot of calls, even with fairly sophisticated users, to this nationwide help desk that we run for helping users use the electronic format.

There must be, third, funding to the libraries to enable some

to meet these new requirements.

Fourth, there has to be staff training in the libraries to help the public as well as the librarians use these new formats in electronic information.

And, of course, the chosen electronic format has to be

appropriate for the particular material.

In closing, we believe that the judiciary has a proven track record for successfully exploring and employing technology-based initiatives to enhance productivity, to reduce spending, and to provide public access. The new initiatives currently being examined, combined with the judiciary's strong management focus on information technology improvements, signal, we believe, that the judiciary's past successes will continue. Seeking out the power of emerging technologies and strategically integrating them into judicial work processes is one of the judiciary's highest priorities today, I assure the committee.

The judiciary is committed not only to making old processes work better, but also to creating new ways of working that are more productive, efficient, and effective. We think these improvements will enable to the judiciary to deliver to the public

better service at a lower cost.

I again want to thank the committee for the opportunity to appear before you today, and I certainly would be happy to answer any questions. It is unusual for me. I usually am asking them. So it is one of the few times I have to say I am happy to answer any questions you have, Senator Pell and Senator Ford.

[The prepared statement of Judge Lamberth follows:]

PREPARED STATEMENT OF HON. ROYCE C. LAMBERTH, UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA, WASHINGTON, DC

Mr. Chairman and Members of the Committee:

I am Royce C. Lamberth, a United States District Judge for the District of Columbia and a member of the Committee on Automation and Technology of the Judicial Conference of the United States. The Judicial Conference of the United States (JCUS) is the policy-making body of the federal judiciary. I am pleased to be here today to present comments from the judiciary on the topic of "Public Access to Government Information in the 21st Century." I will focus my comments on four general areas: the judiciary's commitment to public access programs, the judiciary's expansion of access through technology, the impact of Title 44 on the needs of the judiciary, and changes in the Federal Depository Library Program.

Introduction

To understand better the challenges of developing the judiciary's public information access program, it may be helpful to quantify and characterize the judiciary's information. The judiciary consists of over 2,000 judicial officers performing trial and appellate court functions in 94 districts and 12 circuits across the nation, as well as in territories. Last year, lawyers and litigants filed over 1.2 million civil, criminal, bankruptcy and appellate cases in these courts, and the volume of litigation continues to increase annually. In every case, pleadings and other papers filed comprise a record of the case. Each case is reviewed and decisions are entered by the court addressing the disposition of the case. Those decisions are added to the case file.

In characterizing the information that the judiciary maintains, we think of two major categories: (1) information which is produced by the judiciary, such as written case decisions, forms, recordation of proceedings, case docket data,

statistics, annual reports, publications, and guidelines; and, (2) information that is submitted to the judiciary from outside the Third Branch that must be retained, such as various forms completed by litigants, pleadings, motions, briefs, evidence, and transcripts of other proceedings.

Much of the information in the first category, i.e., the information produced by the judiciary, is available in electronic format due to efforts begun some time ago. In fact, significant progress has been made to provide the public with wide accessibility to this data, such as electronic bulletin board systems, Internet, private legal publishers, automated voice response systems, and public counter terminals. These are the primary information products of the judiciary. Specific examples of the efforts in this area are detailed later in this testimony.

The information in the second category, i.e., information submitted to the judiciary, presents the future challenge. This information is primarily provided on paper and comes from a variety of sources with different technical capabilities (e.g., government agencies, lawyers, public litigants, prisoners). This information, when in paper format, is only available in the courthouse. In electronic format it could help the judiciary, constituents, and the public. For example, the introduction of electronic filing technology would allow the courts to receive pleadings, motions, briefs, and other case-related documents in an electronic versus paper format and would provide accessible, up-to-date information. These documents are among the most frequently requested documents in a case file. Information that could only be received in paper format due to certain circumstances could be digitized and added to the electronic record. Electronic filing and storage would: eliminate repetitive, time-consuming manual tasks; automatically enter vital information into case management systems; reduce use of paper; reduce the space required to store paper files; and provide more efficient and timely access to case-related information to the public. Requirements and costs for application of this technology are being explored.

Commitment to Public Access to Federal Court Information

Several actions recently taken by the JCUS demonstrate the judiciary's commitment to providing wide public access to court information. In approving last year the Long Range Plan for the Federal Courts, the JCUS approved a recommendation that "[t]he judicial branch should act to enhance understanding of the federal courts and ensure that the fundamentals of the litigation process are understood by all who use it. The federal courts should encourage feedback from the public on how successfully the judicial branch meets public expectations about the administration ofjustice."

There are many ways in which the federal judiciary can achieve this objective. One implementation strategy already identified within the Plan is as follows: "[i]nformation on using the courts should be provided through community institutions and in formats aimed at an increasingly diverse citizenry." The expectation is that information should be provided through all widely available technologies, including telephone, computer, and interactive video.

Developing the technology for public access to court records in the judiciary is under the guidance of the Judicial Conference's Committee on Automation and Technology. This committee annually updates its Long Range Plan for Automation in the Federal Judiciary. It is important to note that one of the goals in the 1996 update is to "ensure appropriate access to electronic information at a reasonable cost to the judiciary, other government agencies, litigants, the bar, the public, and others, as appropriate." This goal is currently being achieved through the numerous public access programs that are described in the attachment to this testimony.

The above mentioned goals and objectives demonstrate that the judiciary recognizes a responsibility for disseminating government information. In addition to traditional methods of publishing information and making paper documents available, the judiciary has been making use of appropriate technologies that expand access further. The judiciary has made this responsibility a priority in planning. Further, it has a successful record of adapting technology to meet the information dissemination requirements. And, it has a history of being responsive to the users of the information and the public in general. These public access

programs meet the needs of the judiciary's customers, from those who may only be able to come into an office, or call on the telephone, to those corporate entities which access on-line databases to gain information without diverting court staff's time from other service responsibilities. The judiciary's programs have sought to avoid the problems of a "have" and "have not" information society, but continual challenges are expected in the efforts to make information reasonably accessible to all who are interested.

Technology Broadens Public Access in the Judiciary

The success of the judiciary's programs for access to information is significantly demonstrated by the fact that there are over 30,000 registered users of the Public Access to Court Electronic Records (PACER) system. PACER is the electronic bulletin board system installed in courts that provides case and docket information. Users will make over three million requests for information in Fiscal Year 96. The more accessible automated voice response systems, providing more limited case docket information, respond to over four million calls per year. To those who wish to learn more via the World Wide Web, the judiciary's Internet site provides access to a variety of judiciary publications and general court information. The site records over 10,000 inquiries per month. In addition, all federal appellate court slip opinions are being collected by a consortium of law schools and provided free of charge to the public through each school's Internet Web Site.

This Committee's interest in Title 44 and its effort to include broad representation from all areas of the public and private sector in this series of hearings is to be commended. The judiciary's experiences with electronic information and publishing technology, in particular electronic case filing and Internet/Intranet, has also caused us to examine more closely our policies, rules, and procedures to determine how they are affected by the opportunities presented with new information technology. For example, the Administrative Office of the U.S. Courts already has begun to examine and test ways to publish and disseminate information efficiently through expanded use of technologies. We will want to carefully review any proposed changes to Title 44 to determine the impact on the publication and dissemination policies and procedures in the judiciary.

The Judicial Conference's Committee on Automation and Technology just last month approved strategic initiatives in support of a three-to-five-year vision that will be articulated in the Fiscal Year 97 update to the Long Range Plan for Automation. Two of these initiatives directly support enhancing public access: (1) electronic case files that would include case docketing and management systems, and, (2) Intranet/Internet to facilitate the transmittal of electronic documents and data.

Also, there are numerous prototype projects testing new court technology. The most successful prototype is in the Northern District of Ohio. This system enables the court to handle massive maritime asbestos cases. The system, which uses the Internet, makes filing and accessing information easier for the parties, the court and the public.

The challenges faced by the judiciary in establishing electronic filing projects are typical of many information dissemination issues. The judiciary has a diverse public with differing levels of access to technology. Although the public's access to personal computers is increasing at an encouraging rate, it is uncertain when this technology will be accessible to the great majority of the public. The judiciary has cultural and institutional histories and experiences that influence the acceptance of new technology within the organization.

The judiciary also has concerns about the integrity and security of electronic information. Balancing a concern for accuracy and security with an interest in wide accessibility is a difficult task. What is the definition of "information?" The electronic format removes the ability to simply distinguish between "publications" and "information." How do we distinguish between categories of information held by the judiciary? What assurances do we have that information will be accessible in the future?

The judiciary is a large, decentralized organization which carefully plans change and functions under rules established by the courts to govern the litiga-

tion practice and procedure in those courts. Questions arise as to how these rules should be modified to adapt to increasing use of technology. While progress has been made in the interoperability of hardware and software, we face evolving computer technology that has few established standards. These complex issues are just beginning to be examined in the judiciary and our position is not defined. Our experiences in current projects, and information gained through hearings such as these, should offer information to plan for the future and the inevitable expansion of electronic information.

Title 44—Government Printing Office

Bringing Title 44 into the 21st century with minimum cost to the taxpayer is a necessary and responsible action. The judiciary initiates annually more than 30,000 printing jobs nationwide, with more than half of those directed to the Government Printing Office (GPO). The remaining printing requirements are directed to Federal Prison Industries and other non-GPO organizations, and are primarily small jobs for which the procurement authority resides within the judiciary. The spending for GPO work is approximately \$5.0 million each year, which accounts for the majority of the judiciary's total printing expenditures. GPO provides the necessary resources for the large-scale procurement and distribution of printed materials. The GPO Rapid Response Centers are used by courts nationwide to provide quick turnaround service on a variety of printing jobs.

In addition, the judiciary spends approximately 2.4 million dollars per year printing appellate case decisions having precedential value (termed "slip opinions") for the federal courts. Since 1939, the judiciary has printed these opinions through commercial sources under a delegation of authority from either the Joint Committee on Printing or the Public Printer. The delegation or waiver is extended to the judiciary in recognition of the importance of a direct working relationship between the courts and their commercial printing vendors to ensure that the services meet the quality, quantity, format, technical review, confidentiality, security, and delivery requirements of each U.S. Court of Appeals. The ability to recognize unique situations and authorize waivers to Title 44 is necessary and should be considered in any discussions involving changes to Title 44. This waiver for slip opinion printing is essential to the integrity of the judicial process and must be continued.

From our perspective, there are several areas in Title 44 where the judiciary could benefit from updating the statute. For example, in its current form, Title 44 contains limitations which can restrict the courts' ability both to produce timely materials and serve the public in an efficient manner. While we recognize that GPO cannot always guarantee specific deadlines will be met, this creates difficulties when deadlines, such as those for annual reports and similar materials, are required by law or by the Judicial Conference of the United States. Also, current restrictions, such as the \$1,000 limit on outside or "emergency" printing, seem outdated in our fast-paced, tight-deadline oriented society.

Further, we believe it is important that GPO have adequate authority to penalize vendors monetarily for non-compliance or low-quality work, and to prohibit such vendors from continuing to obtain government business. In this respect, Title 44 and the procurement of printing jobs needs to be made consistent with other procurement regulations in the government.

Title 44, Chapter 19-Federal Depository Library Program

Eighteen federal judiciary libraries participate in the Federal Depository Library Program (FDLP). Participating libraries include each circuit headquarters library (located in the District of Columbia, Boston, New York City, Philadelphia, Richmond, New Orleans, Cincinnati, Chicago, St. Louis, San Francisco, Denver, and Atlanta) and several of the larger branch libraries, such as the ones in Los Angeles, Seattle, and Phoenix.

Because the judiciary's libraries are law libraries, the selection of publications from the FDLP collection is narrow in focus when compared with public or academic libraries. Publications that are requested tend to be congressional materials (including the Congressional Record and the Serial Set for legislative histories), Supreme Court slip opinions, and executive agency regulations and opinions.

The FDLP portion of the library collections is used by judges, their law clerks, U.S. attorneys and their staff, public defenders, members of the bar, pro se litigants, and, to a lesser extent, the public at large. The primary focus of the federal court library program is to provide research materials and assistance to aid judges in deciding cases, both through direct research and through providing access to materials. To the extent that the judiciary's libraries participate in the FDLP program, which imposes a requirement to provide broad public access to government information, problems do arise. For example, the broad public access requirement needs to be addressed against the current efforts to improve security for judges and court staff in federal courthouses. Also, the FDLP requirements to add a public access personal computer in each library will require libraries to divert funding from other priorities.

As related in the testimony of Daniel P. O'Mahony, Coordinator of Government Documents and Social Sciences Data Services at Brown University Library in Providence, RI, and past Chair of the Federal Depository Library Council, the movement away from print and toward electronic information must be a wellthought-out, incremental transition. However, there is potential for information available only in electronic form to be less accessible. Consequently, as electronic formats are prepared, consideration must be given to developing standards for identifying, cataloging, and retaining the government information in a systematic way. With technology changing rapidly, government information is at risk of being retained in out-of-date electronic formats. Legal researchers often look to historical documents such as legislative histories and case law precedents. Stable,

retrievable formats are crucial to such research.

If the gatekeeper for government information is search and retrieval software, then librarians and library users must have equipment that can run the software, and training for using the software, before the electronic information becomes accessible. Moreover, librarians must provide computer training and support to patrons using FDLP materials. The judiciary has cause for concern if the costs for this electronic public access are shifted from the GPO (printing) budget to indi-

vidual library's (personnel and equipment) budgets.

The impact of this transition on library staff cannot be underestimated. Let me share our experience with automation support. The judiciary's libraries have talented librarians who are knowledgeable about online research. Computer assisted legal research (CALR) has been a cornerstone of the judiciary's library program for the last ten years. We have learned from our experience with CALR that having a help desk available to answer users' questions is vital. The judiciary users of CALR are typically well educated, experienced users of CALR, yet one contractor's help desk receives about 1,800 calls per month from judiciary users for assistance in research or to solve a problem with the equipment or software. Requests for assistance range from problems with locked up keyboards, to questions on how to set up the modem, to problems with printing documents, to questions on how to formulate a particular search or what materials are included in a particular data base, to questions on how to convert material to a particular word processing format. It is not hard to predict that providing user support for the typically less informed public would be an enormous undertaking for the court librarians.

Moreover, most libraries do not have access to Internet and most do not have public access work stations with CD-ROM drives, sufficient hard drives, laser printers, modems and dedicated telephone lines or Internet connections. This may present problems for library access to information on Internet or for aiding others in accessing FDLP information in electronic format.

In summary, a migration toward publishing government information in electronic format will be successful if: (1) standards are developed for file formats, access, software functions, licensing agreements, and archiving; (2) a helpful, well-staffed central help desk with many phone lines is provided by GPO; (3) funding is provided for equipment, Internet access, and telephone lines for the participating libraries; (4) the need for staff training in FDLP libraries is recognized; and, (5) the electronic format is appropriate to the materials (with print continuing to be available in the next few years for presentation of material with tables and charts).

Conclusion

In closing, we believe that the judiciary has a proven track record for successfully exploring and employing technology-based initiatives to enhance productivity, reduce spending, and provide public access. The new initiatives currently being examined, combined with the judiciary's strong management focus on information technology improvements, signal that the judiciary's past successes will continue. Seeking out the power of emerging technologies and strategically integrating them into judicial work processes is one of the judiciary's highest priorities. The judiciary is committed not only to making old processes work better, but also to creating new ways of working that are more productive, efficient, and effective. These improvements will enable the judiciary to deliver to the public better service at a lower cost.

Thank you for the opportunity to appear today before the Committee and I

stand ready to answer any questions.

Attachment

Current Electronic Public Access Programs in the Federal Judiciary

For the past 7 years, the federal judiciary has been offering electronic public access services to improve the public's ability to access federal court information. These services have generated over seven million calls a year from the legal community and the general public. The judiciary's Electronic Public Access program has made access to court information by the general public faster and easier. Together, these specific applications provide a comprehensive program of electronic public access that meets a myriad of needs and requirements, providing a basic level of access to the public at little or no cost, while also offering more sophisticated service at reasonable costs.

The Supreme Court of the United States offers two electronic access services to

the public for the purposes of disseminating information.

The U.S. Supreme Court Electronic Bulletin Board System is a new pilot service which provides on-line access to the Court's automated docket, argument calendar, order lists, slip opinions, rules, bar admission forms and instructions, Court tour information, special notices and general information. The automated docket posted on the Bulletin Board System (BBS) is current as of the preceding business day. Slip opinions and orders are posted within a few days after their release. This BBS contains opinions issued during October Terms 1993, 1994, and 1995. Access to the BBS is presently provided at no cost.

The Court also offers the U.S. Supreme Court Clerk's Automated Response Systems (CARS) which permits a caller using a standard touch-tone telephone to obtain the status of cases on the U.S. Supreme Court automated docket from an automated voice synthesizer response system. Callers may receive case information, Bar admission information, or speak directly to a clerk. Callers can access information by using the Supreme Court docket number or the case name.

The appellate, district, and bankruptcy courts also offer several electronic public access systems. Following are brief descriptions of some of these services.

The Voice Case Information System (VCIS) uses an automated voice response system to read a limited amount of bankruptcy case information directly from the court's database in response to touch-tone telephone inquiries. This service permits the caller to obtain information about a bankruptcy case quickly and easily by making a simple phone call. The service is now operating in approximately 75 bankruptcy courts. VCIS is free of charge.

Appellate Voice Information System (AVIS) is a comparable service to VCIS which enables a caller to gain appellate case information by use of a touch-tone telephone. AVIS is currently available in the District of Columbia, First, Second and Fifth Circuits, and is expected to be implemented in additional circuits this

year. This service is also free to the public.

The ABBS (Appellate Bulletin Board System) is now available in all but one federal appellate court. This system offers public users electronic access to appellate court decisions (slip opinions) and other court information such as oral argument calendars, case dockets, local court rules, notices and reports, and press releases. Most appellate courts have upgraded their systems and offer both slip opinions and case dockets on the same public access computer and telephone

number. Information on these systems can be viewed on-line or automatically downloaded into a user's computer. In accordance with Judicial Conference

policy, most appellate courts charge a user fee for this service.1

Public Access Terminals are provided free of charge for the public and are located in the clerk of court's office in all appellate, district and bankruptcy courts. Members of the public can go to the clerks' offices and can quickly and easily access these terminals to obtain pertinent case and docketing information.

The Public Access to Court Electronic Records (PACER) system allows any user with a personal computer to dial-in to a district or bankruptcy court computer and retrieve official electronic case information and court dockets usually in less than a minute. PACER is predominately utilized by attorneys and has eliminated the need to travel to the courthouse to retrieve routine information. Each court controls its own computer system and case information database; therefore, there are some variations among jurisdictions as to the information offered. Typically, information currently available through PACER includes basic case information, docket information, index information, and opinions. Many jurisdictions offer 800 telephone lines to eliminate long distance toll charges.

User fee charges for PACER service have been instituted in most courts.2 However, the Schedule of Fees established by the Judicial Conference of the United States permits courts to "exempt persons or classes of persons from the fees in order to avoid unreasonable burdens and to promote public access to such information."3 This exemption language is intended to accommodate those users who might otherwise not have access to court information in this electronic form. Classes of persons who may be exempted from the fee include indigents, bankruptcy case trustees, not-for-profit organizations, and voluntary Alternate Dis-

pute Resolution neutrals.4

Internet Access to court information continues to expand. The Administrative Office manages the judiciary's Internet Web Site which contains general information on the judiciary, numerous publications, and proposed rules for public comment. Several individual courts have also established Internet sites and offer court information. In addition, numerous Internet web sites have independently arranged to offer judiciary information, such as opinions and court rules. A consortium of law schools, generally one from each circuit, provides free access to appellate slip opinions through each school's Internet Web Site. Circuits were approached individually by the law schools about participating in this effort. The member law schools have complete responsibility for retrieving the opinions and uploading them to the Internet. Arrangements such as these support access to government information without requiring government resources.

All of these services provide the public with greater and more rapid access to federal court information and utilize flexible options to meet the individual needs of the user. Expansion of electronic access services will continue to reduce

the barriers to the public's ability to access court information.

Senator FORD. Well, Judge, you are mighty nice, and before we get to the questions, we have been joined by my good friend, Senator Pell, from Rhode Island. Senator, do you have any opening statement you would like to make before we question?

Senator PELL. No. Just to say I am glad this hearing is going

on, and I look forward to following it.

Senator FORD. Thank you very much, Senator.

The Judiciary Appropriations Act of 1991 (Public Law 101-515, 1990) provides that the Judicial Conference shall prescribe and collect reasonable fees for furnishing electronic public access to federal court information.

The fee for PACER services was originally established at \$1.00 per minute and is now \$.60 per minute. See notes to 28 U.S.C. §§ 1913, 1914, 1926, and 1930 for fee schedules for courts of appeals, district courts, Court of Federal Claims, and bankruptcy courts.

Judge, let me tell you that I share your concerns that we avoid creating apparently haves and have-nots as the Government takes advantage, as we take advantage of new technologies. In that regard, I commend the judiciary for making all Federal appellate court slip opinions, as I understand them, available—and I underscore free of charge—to the public through the Internet sites of the consortium of law schools.

How does the judiciary ensure access to those slip opinions to the have-nots who do not have access to the Internet or are

unable to use computer technology?

Judge LAMBERTH. Well, if you come to any clerk's office, they are available in the office, of course, in paper form. You also can obtain copies in electronic form, either from your law firm or home or wherever you are, by accessing an electronic bulletin board. All but one of our courts of appeals now have an electronic bulletin board where we post the decision on the electronic bulletin board the day it is issued. And these are available to any member of the public who can call up and get the decision electronically.

Of course, if you don't deal with getting it electronically and want a paper copy, a copy can be sent to you free of charge by calling as well to a different number, the appellate voice-activated system, or you can, of course, appear at any clerk's office and get a copy on the same day it is issued. Free of charge.

Senator FORD. That is the so-called Depository Law Library

that you are talking about?

Judge Lamberth. No. That is in the clerk's office itself. Now, each Depository Law Library also gets a copy of the slip opinion of every circuit, and as soon as it is received in that Depository Law Library, any member of the public can see it. They get that in paper form, since each of the circuits sends it to all the other circuits. So every circuit will have the opinions of every other circuit in that Depository Law Library that any member of the public—

Senator FORD. What about the Depository Library at the University of Kentucky? Do you send one automatically to them?

Judge LAMBERTH. No, but they can ask to be included on the mailing list at each circuit, and a university would be included free of charge if they asked to be on our mailing list.

Senator FORD. In your testimony, you gave me 3 million, 4 million, 125,000. It sounds like you have a lot of action. It sounds like the legal fraternity is doing very well or people are interested. But you say that approximately, I believe, \$2.5 million annually is spent printing these slip opinions.

Judge LAMBERTH. That is right.

Senator FORD. Printing is through commercial sources under a waiver from the Public Printer or from the Joint Committee on Printing, dating back, I believe you said, to 1939, and that this waiver is essential—I quote you now—"to the integrity of the judicial process."

Can you elaborate on that statement, the integrity of the

judicial process?

Judge LAMBERTH. Well, we have cases that are, of course, very sensitive to parties on either side as to how they are going to be decided. And advance notice to any party of how the decision is going to come down can actually affect a lot of things. In some of the more important cases, it might even affect the stock market. It might affect other actions that other parties might take. So the integrity of the judicial process is important that until we actually issue a decision and everyone has access to it that it is kept absolutely confidential and no one can know what the judge or the court of appeals is going to decide until it is released to everyone simultaneously. And advance leaks or word of what the decision might be through a printer, through a law clerk, through any other means, is one of our greatest fears in the judiciary.

Senator FORD. So that is the reason that you need the waiver so that you can keep control of the sensitivity of the case and

prevent it from being released?

Judge Lamberth. That is right. We also are concerned about quality because the change of a word or the change of an apostrophe in some of these opinions can be absolutely critical, as I am sure you have seen in some of your legislation.

Senator FORD. I won't comment on our legislation as written. Judge LAMBERTH. Well, I have to deal with it as a judge a lot of times, and I am figuring out what that comma meant in that place—

Senator FORD. I take no responsibility for the writing.

[Laughter.]

Senator FORD. They wanted to know if I was an attorney. I

said, no, but I am on the jury.

In your testimony, you raised an issue that has not come out in these hearings before, I think. You suggest that GPO needs the authority to penalize printers for non-compliance or low quality of work or to prohibit such printers from continuing to do Federal work. I suspect after they get a warning and they do it again, they could be eliminated from the list.

How widespread, Judge, is this problem, do you think? And do you believe that these problems would exist if GPO's

procurement authority is diminished or eliminated?

Judge Lamberth. I can't tell you how widespread it is. I think from our purist point of view we see a lot of Government contracts across the board, not just GPO but many other Government agencies. And we see a lot of clauses in those other Government contracts that we think would be to the advantage of the Government, and we have been curious why they aren't in those GPO printing contracts because it is to the advantage of

the Government to have those kinds of clauses and actions to force a better printing product.

I can't tell you how widespread it is, but to us it just makes sense as good government to try to do the best you can on enforcing compliance with your contractual obligations. We are not doing anything other than just saying look at what the rest of the Government is doing in terms of enforcing their contracts. There are some better ways to do it.

Senator FORD. I don't want to jeopardize my colleagues here from asking questions, but I have one question that has always bothered me. Has the judiciary studied the issue of long-term preservation of electronic information? What are you doing in the meantime to preserve this information that is produced electronically?

Judge LAMBERTH. We have, and we have an ongoing study now. One of the concerns I mentioned in my testimony is we have electronic information today that is accessible with today's equipment and software and so on, and we are concerned that 20 years from now, when we have a new generation totally of computers and experts and everything else, we may not be able to go back and retrieve that. So we are looking at and studying that issue now of how to make sure we have it in a format that will be accessible for the future, and not just in 20 years, because we are concerned in the judiciary about historical records as well that go to the Archives. Many of our cases do end up being archivally very important.

So we have a group looking at the issue of how we can ensure long-range access to electronic records. Part of our study will investigate if we can do away with paper records, in at least some categories of cases. We will have to make sure then that those electronic files ultimately can be successfully found and retrieved many years down the road. We can do it with paper today, but we are not as confident that down the road we can do

it.

Senator FORD. Sometimes when you pull the plug or the electricity goes off, you lose everything. Like one fellow says,

garbage in, garbage out.

That is all the questions I have, and, Judge, there will be other members of the committee that may have some questions in writing to you. Do you mind accepting those and responding in a timely manner?

Judge LAMBERTH. I would be delighted.

Senator FORD. All right. We have been joined by the distinguished Senator from New York, Senator Moynihan. Do you have a statement before we go to further questions, Senator?

Senator MOYNIHAN. No, sir. I am here to learn.

Senator FORD. All right. Senator Pell, do you have some

questions you would like to ask the judge.

Senator PELL. I have just one question following up on the question of accessibility. Could you give us any examples of where material has already become inaccessible, electronic material?

Judge LAMBERTH. In electronic? Senator PELL. Electronic media.

Judge LAMBERTH. Well, each circuit—other than one—now has this electronic bulletin board where opinions are now accessible. We also have a pilot project going in the Northern District of Ohio where filings in certain categories of cases are now being done electronically, and the filings are electronically accessible as well. That pilot is working fairly well as an opening step, and that will then give access to all the information in the case file electronically as well as just to the opinion itself.

So we are beginning to experiment with some things like that. Ultimately, until all people are ready to use computers, we can't do that with all cases, but we can probably do it with categories of cases. And we can probably do it in a few years in a fairly large number of cases where law firms are filing. If we can show that law firms could transmit electronically to our clerk's office the filing in the case, it would then be docketed in the clerk's office and would be accessible on the court's computer to any member of the public who came to the clerk's office to view it or to those who subscribed to our PACER system that has electronic access to the case files themselves as well as opinions.

We are already well along in terms of providing the court's opinions electronically. We are studying now whether we can make a lot of court files themselves accessible to the public electronically, probably ultimately through our PACER system,

and it will really open up a lot of things.

In our court, we are building and hope to open in the September-October time frame a kiosk in our clerk's office. We will have six terminals there. Any member of the public can come in and on this terminal access all sorts of information about our cases, our files, where a judge is sitting, what the judge's schedule is, all kinds of electronic information that will be accessible to any member of the public. And if we successfully demonstrate that kiosk approach here in D.C., I think many Federal courts in the country will go to that kiosk approach as well, which will open up a lot of electronic information to the public.

Senator PELL. From a historical viewpoint, looking down a century from now, or say two centuries, would you feel more comfortable with material being in the electronic media than you

would if it were in paper?

Judge Lamberth. Well, I am still a little nervous, and I guess as a member of our Automation and Technology Committee I shouldn't say that. But I think we have got a lot of work to do to ensure that in the future we can preserve the way of accessing today's materials in future years, because I think there are real problems with making sure we can find this stuff if we have got

it stored electronically and that we can get it out if we have got it stored electronically.

I think those are solvable, but I think there are questions that we have really got to carefully look at to ensure that we preserve the information for future generations.

Senator PELL. So often with electronic media you use it, you turn it off for the day, and it disappears. This does not happen if it is in paper.

Judge LAMBERTH. Well, you know, we lose files, too. So I am not saying it couldn't happen with paper.

[Laughter.]

Judge LAMBERTH. We have been very lucky. We do backup systems so that we back up virtually everything every night. We have a disaster plan to make sure if our building—if something happened to our building, we have an off-site location so that we can preserve everything probably up to that very day that we have electronically.

We have ways to deal with those kinds of questions that we

have thought of.

Senator PELL. Thank you very much.

Judge LAMBERTH. Thank you, Senator.

Senator FORD. Senator Moynihan?

Senator MOYNIHAN. I would make the point that libraries burn—not frequently, but tapes can be—you can put libraries on a disk and put them in ten places.

Judge LAMBERTH. That is right, and we have disaster plans to

do that very thing.

Senator MOYNIHAN. Your Honor, just two questions, one on the variability of our systems. Are you familiar with this "Y2K" problem?

Judge Lamberth. No.

Senator MOYNIHAN. All of the computer systems at work in this country today use simply the last two numbers of the calendar year. They began with no thought for the next century. We are just hours away from the point where an entry for the year 2000 will show up as an entry, in effect, for 1900. You must have some of that problem.

Judge LAMBERTH. We do, and we do have some people looking at the easiest way to fix this. It looks to us like it may be going to—preliminarily, it looks like it may be going to a four-digit

year date rather than a two-digit date.

Senator MOYNIHAN. You would just go to four digits, so you pick up the next century.

Judge Lamberth. Yes.

Senator MOYNIHAN. But that can mean hundreds of digits of changes.

Judge LAMBERTH. It could, but probably the changes can be programmed to be done through computer programs that would not take re-keying.

Senator MOYNIHAN. All right.

Judge LAMBERTH. And if you don't have to re-key, it probably can be done in a way that there are some costs to it, but it is not overwhelming. I think that is our preliminary thought.

Senator MOYNIHAN. I don't know what we are doing. I would say to the chairman, if I could just get the chairman's attention

for one moment?

The CHAIRMAN. Yes? Excuse me.

Senator MOYNIHAN. I was saying to His Honor, asking about the judiciary's handling of this question of—it is called "Y2K", the year 2000, in our computers. Our computers, the most futuristic of all our innovations of the 20th century never thought the 21st century would arrive. All of the dates in every Navy file, in every bank account, in every Treasury, IRS files, the years are recorded by the last two digits. And we are three-and-a-half years away, or whatever, exactly, from recording the year 2000 as 1900.

The CHAIRMAN. That does pose a problem, particularly in the

computer center.

Senator MOYNIHAN. Yes, and I think the Federal Government—it is a problem everywhere, but it is one you can easily handle if you do it now. And if you don't do it now, the day will come when you will think the greatest—that mankind was cursed with the computer. Judge, you are being very generous. I am trying to get the Internal Revenue Service and the Defense Department to think about it.

Could I ask you a question? You mentioned the importance of maintaining the confidentiality of judicial decisions until they are issued. Would I be wrong in thinking that this system works

very well?

Judge Lamberth. We have been very pleased with our system to date. We are concerned, like many in Government are concerned—and I know some in Congress are concerned—about computer security and how we can ensure, now that we are doing a lot of our opinions on computers and, therefore, subject to intrusion, that we maintain that security. In fact, I am going up next week for a session with some other colleagues from the judiciary and the National Security Agency which is giving us some advice about computer security to make sure that we are doing the best we can to make sure internally we don't have outside attacks to try to get our opinions now that they are being drafted by our law clerks and by us on computers.

Senator MOYNIHAN. Would it be an imposition to ask if you could have someone prepare a statement for the committee as to

how you are approaching this?

Judge LAMBERTH. I would be delighted.

Senator MOYNIHAN. It is generally the case that judicial opinions are kept closed until the judiciary opens them, that there are no leaks out of our—

Judge LAMBERTH. And we have been very fortunate.

Senator MOYNIHAN. That is generous of you to say, but I don't know if fortunate is the term. You have been very capable, and also there is a degree of integrity. Can you imagine if you had the standard of security of the White House, any White House? And, discreetly, His Honor demurs.

But, you know, national security information regularly makes its way where it shouldn't; whereas, the courts keep confidences. Of course, you always in the end tell us what you decide, which is a different thing. But the invasion of an electronic system is the question, and if you could provide for the committee a statement, I would be personally grateful and I am sure the committee would.

Judge LAMBERTH. I would be glad to.

Senator MOYNIHAN. Thank you, Your Honor.

Judge Lamberth. Yes, sir.

[The additional statement of Judge Lamberth is included as Appendix D2.]

The CHAIRMAN. One more question, Your Honor. Each of us in life can look back at those moments where you had good fortune, and when I left law school, my good fortune was to receive an appointment as law clerk to a Federal circuit judge. And, by the way, Senator Moynihan, I recently put through legislation to name the Federal courthouse here in Washington in honor of the late Chief Judge E. Barrett Prettyman.

I understand you testified the appellate courts have already complied with 44, and yet there is some problem at the district court level. I find that quite intriguing. Could you throw some

light on that?

Judge LAMBERTH. Well, the appellate opinions are very precedent-oriented. District judges have to follow appellate opinions of our circuit. We don't have the same precedential value to district court opinions, and we don't—no slight to my colleagues on my level, but we don't have the same interest in our opinions. The public is interested. The litigants in the case are interested. But in terms of publishing and making them available, we have generally provided them in the clerk's office, provided them publicly, and private publishers publish them. But we have not generally published district court opinions because they don't have the precedential value that circuit opinions do. And, of course, I think every word I write is a jewel, but I recognize that that is not necessarily viewed that way.

The CHAIRMAN. I think you have outlined the past history, but

what about today and tomorrow? It seems to me that—

Judge LAMBERTH. We are looking—

The CHAIRMAN. I mean, I can recall—and you can better than I—some tremendously important decisions by Federal district court judges.

Judge LAMBERTH. We are looking at the issue of whether in some circuits we could tack on a district court bulletin board to

the circuit bulletin board that would make available at least selected district court opinions. And I think that is probably the way we will head as the next step. It is the next logical step to me, because we already have these circuit bulletin boards set up.

The CHAIRMAN. As you know, certain opinions on injunctions

have brought to a halt nationwide certain activities.

Judge LAMBERTH. I agree.

The CHAIRMAN. Well, I thank you very much.

Judge LAMBERTH. Thank you, Senator.

The CHAIRMAN. I regret that I was absent for much of your

testimony.

We will now proceed to the second panel, the Honorable Sally Katzen, Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget; Mr. Christopher H. Schroeder, Acting Assistant Attorney General, Office of Legal Counsel, Department of Justice; and Dr. Donald R. Johnson, Director, National Technical Information Service, U.S. Department of Commerce.

Ms. Katzen, we will hear from you as our lead-off witness.

TESTIMONY OF HON. SALLY KATZEN, ADMINISTRATOR, OFFICE OF INFORMATION AND REGULATORY AFFAIRS. OFFICE OF MANAGEMENT AND BUDGET, WASHING-TON, DC

Ms. KATZEN. Thank you, Mr. Chairman and members of the committee. I am very happy to be here today to discuss the role of the Government Printing Office and the ways of managing the Government's printing and information dissemination activities more effectively. I ask that my written statement be included in the record.

The CHAIRMAN. Without objection, the statement of yourself and those of all the witnesses will be admitted into the record in their entirety, and consequently the committee asks that you appropriately condense your remarks.

Ms. KATZEN. I will be happy to do that.

I was delighted to hear the chairman mention in his opening statement the intent to review and think about a comprehensive reform to Title 44, and we join you in that objective.

I think there are two prongs to this set of issues which should be addressed together. The first is the issue of procurement by the agencies of printing and, increasingly, the use of electronic media, on which more and more Government information is

being placed.

The second is the dissemination of Government information, and the role of the Depository Library Program. Mr. Ford was quite explicit in his statements as to the importance of the dissemination of Government information. I join him in those statements. I am very proud of the administration's record in this regard. For the last 3 years, we have done much to promote the

dissemination of Government information. It is indeed a national resource, a national asset.

Alice Rivlin, then Deputy Director of OMB, appeared before this committee 2 years ago and made a compelling case that the executive branch should be responsible for executive branch printing policy and that printing can and should be procured like other goods and services. Technological and other means are available to ensure a fair and competitive procurement process for even the smallest entities. She also spoke to the role of GPO, noting that it can and should be an equal player in that process. And finally, she recommended that we develop mechanisms to transform the role of the depository library system for an electronic age. Her suggestions, I believe, are as valid today as they were then.

In the 2 years since she has testified, quite a bit of attention has been paid to these questions, but not much has been produced in the way of concrete proposals for comprehensive reform. Indeed, I think too much energy has been spent on jurisdictional or, if you will, turf squabbles, rather than getting to the merits of how to improve service to the American public.

We believe that an efficient and orderly process to reform Title 44 is possible and can be undertaken now. I understand that on July 22nd, the National Commission on Libraries and Information Sciences, NCLIS, passed a resolution offering its good offices to facilitate at least part of such a process. We welcome this action, particularly given NCLIS's unique charge to provide policy advice to both the legislative and the executive branches.

Independently, we have thought about the necessary ingredients of a suitable study of this issue, and, at a minimum, we believe it should pull together the following six elements: (1) an analysis of the costs associated with the various printing and dissemination technologies presently used by the Government, coupled with a forecast of how those technologies and related costs will change in the future; (2) an inventory of both the executive and legislative branches' present printing plant and equipment, including an evaluation of expected useful life, depreciation, et cetera; (3) a plan for consolidating and downsizing existing in-house executive printing capacity using the cost and inventory data that I just mentioned. The goal would be to reduce such capacity to the minimum necessary to meet requirements not capable of being met by the private sector in a timely or efficient manner, and we would encourage a similar plan for the legislative branch to be developed by the General Accounting Office.

The fourth element is a plan for the efficient procurement of printing by the Government. This should be done by agency procurement executives in cooperation with the Public Printer and in consultation with the printing industry. The problem of overcentralized control can be solved by devolving printing

procurement responsibility to the agencies and by giving the President responsibility for printing policymaking for the executive branch.

These four elements address the printing prong of the set of issues under discussion, and they rest on an assumption that a fair, transparent and fully competitive printing procurement process can be facilitated by making maximum practical use of electronic commerce techniques.

Two other elements of the effort address the depository library program. The first is a plan to ensure depository library access to adequate copies of printed publications, including procedures for the Superintendent of Documents to "ride" agency printing procured through the executive agents and for the Superintendent of Documents to receive adequate copies of publications that are not so procured; and second, a plan that ensures the ability of the depository libraries to access the information that agencies make available in a networked environment. This plan should include an appropriate phase-in period and a study of the libraries' electronic capabilities.

I believe that the series of hearings that you have held has identified both problems and opportunities associated with printing procurement and with the effective management of the Depository Library Program. We are hopeful that a good faith commitment by the executive and legislative branches, facilitated by the good offices of NCLIS, can lead us toward comprehensive reform. We must reinvent Government printing just as we are continuing to reinvent the rest of what Government does so it can serve the American people better. We must continue to promote and enhance the Depository Library Program. Only a comprehensive revision of Title 44, supported by solid information and sound analysis, has any hope of succeeding. We will do everything we can to help you in that endeavor.

Thank you.

The CHAIRMAN. That is very helpful, because this is a complicated and tough problem, and this committee is determined to do the best we can, but we need a lot of outside help and ideas, and your testimony this morning has supplied that.

Thank you very much.

[The prepared statement of Ms. Katzen follows:]

Prepared Statement of Sally Katzen, Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC

I am pleased to appear before this Committee to discuss the role of the Government Printing Office (GPO) and ways of managing the Government's printing and information dissemination activities more effectively. The Administration strongly endorses the Committee's stated intent to update the printing and related provisions of Title 44 to assure Congress' mandate for an informed citizenry is met. Indeed, the Administration's National Performance Review

(NPR) specifically recognized that the revolution in information technology which the nation is experiencing is providing many opportunities to reshape the structure of government to improve the delivery of services and information to

the public.

In this spirit, President Clinton and Vice-President Gore have stated: "we can no longer afford to pay more for—and get less from—our government . . . It is time to radically change the way the government operates—to shift from a top-down bureaucracy to entrepreneurial government." Congress recently recognized the need to do away with a rigid, centralized, micro management structure for the procurement and management of information technology, by enacting the Information Technology Management Reform Act of 1996, and replacing it with an agency-based management structure linked to the budget process. We are pleased that this hearing is exploring opportunities that now exist for a similar change in government printing.

Let me first summarize how we view the current situation. Then I will outline three basic principles, first enunciated by former Office of Management and Budget Director Alice M. Rivlin before this Committee in 1994, which we think are essential in this area. I will then describe our current policy and approach. Finally, I will suggest a process to develop a comprehensive revision to the

printing and related provisions of Title 44.

I. The Current Situation

Information technology is changing the way words and images are put on paper and in many instances eliminating the paper altogether. Electronic databases, personal computers, off-the-shelf software, laser printers and other, more sophisticated technology provide the creators of information increasing flexibility to deliver it when and where it is needed. This Committee has been a leader in recognizing these developments, as evidenced by its work on securing passage of Public Law 103-40, which provides for electronic access to the GPO. I note that Vice-President Gore worked closely with this Committee to ensure the enactment of this legislation.

Notwithstanding these fundamental developments, we appear locked into a single, centralized approach to per orming printing operations in old outmoded ways. The printing provisions now contained in Title 44 of the United States Code date back to a time when economies of scale dictated a large centralized printing plant to serve all of the government. Title 44 also reflects a time when government information existed solely in paper form, necessitating a centralized distribution system where printed publications would be assembled and shipped to libraries

nationwide.

GPO remains the principal source for obtaining congressional and Executive branch printing. GPO satisfies its Executive branch printing objectives through commercial contracts, supplemented by it own in-house facilities when they are not being used for congressional work. GPO charges overhead of six to nine percent for each print order it forwards to private sector printers. Agencies complain—and the General Accounting Office (GAO) has confirmed—that printing done in-house by GPO can cost 50 percent more than printing done in the commercial sector.²

The Administration believes that adherence to the old approach, which dates back to 1860, contributes to the inefficiencies and ineffectiveness identified by the GAO. We believe that significant efficiencies, and much improved service, will be realized by injecting more competition and direct accountability into government printing. The United States is the home to an efficient and cost effective printing industry that ably serves the government's needs. The need then is to update the system, not dismantle it. And in doing so we must recognize labor organizations, Congress's own printing customs, the depository libraries, the private sector printing industry, the information industry, the Federal agen-

Bill Clinton and Al Gore, "Putting People First," (New York Times Books, 1992), pp. 23-24.

² See, "Government Printing Office: Monopoly-like Status Contributes to Inefficiency and Ineffectiveness," General Accounting Office, GGD-90-107 (1990).

cies, and, most important, the public. Reform also presents the opportunity to put to rest longstanding separation of powers concerns.

II. Toward Resolving the Problem

In February 1994, former OMB Director Alice Rivlin appeared before this Committee and made a number of suggestions which could form the basis for a comprehensive revision of the printing and related provisions of Title 44. These suggestions are as valid and worthy of consideration today as they were then.

Procure printing like any other good or service. Solve the problem
of over-centralized control of traditional printing by devolving
printing procurement responsibility to the agencies and by giving
the President responsibility for printing policy making for the
Executive Branch.

Under this approach, the President would promulgate Executive branch printing policy to ensure an open and competitive bidding process which will allow the private sector to compete for all government printing contracts. Two strategies can be used to maximize the efficiency and transparency of the procurement process.

First, a fair, transparent and fully competitive printing procurement process is needed. As with the procurement of any other goods or services, this requires making bidding opportunities openly available to all qualified sources, and ensuring that the requests for bids specify the government's actual requirements and are unbiased. This can be facilitated by making maximum practicable use of electronic commerce techniques.

Of course, some agencies may not have the expertise or ability to themselves procure printing in the most open and efficient manner, and there may be some types of printing or related services which may particularly benefit from centralized procurement. In such cases we could follow the example set by Congress in the Information Technology Management Reform Act (Division E of the Defense Authorization Act of 1996). One or more agencies with demonstrated expertise could be designated as "executive agents" for other agencies to use as procurement agents for printing.

Guidelines to implement this concept would be developed with input from all interested parties, and would ensure depository library access to government publications by establishing a limited number of readily identifiable access

points to the broad range of publications.

Second, the policy must include a strong commitment to taking maximum advantage of the cost effective services of the private sector. This includes downsizing the in-house printing capacity of the government. You may be aware that the Administration is currently embarked on an aggressive initiative to consolidate Federal computer processing centers. It is expected to eliminate at least half of the present 200 large Federal data centers and result in budgetary savings of several hundred million dollars annually. Lessons learned from this initiative will be directly relevant to consolidating and downsizing in-house

printing

I want to emphasize that we believe fears are overblown that implementation of an initiative where the Executive branch sets its own printing policies will result in agencies willy-nilly creating new in-house printing facilities. In today's fiscal environment, agencies do not have the resources to make significant investments in traditional printing equipment. Agencies would be motivated—even without the policy we will put in place—to shop competitively for printing services which meet the agency's requirements, timing and budget. GPO, to the extent that it is cost effective and responsive, will be a source for much of this printing. Moreover, we believe that the printing industry will embrace a common sense revision to Title 44. Such legislation must reflect the principle of full and open competition and transparency in procurement procedures, which they have consistently supported.

 Allow GPO to bid on an equal basis for agency printing work, and allow agencies voluntarily to procure printing work through GPO.

Once the authority to procure printing is devolved to the agencies, GPO would have the opportunity to market its services to the Executive branch at competitive

prices. GPO has already begun working very successfully with agencies as a value-added service provider in developing electronic information products, without a statutory monopoly. GPO could extend this business strategy to the area of traditional printing. Indeed, it is conceivable that GPO could be designated as one of the "executive agents" for agency printing procurement, thus effectively guaranteeing a continuing flow of work for its procurement operation. GPO could remain a Legislative Branch agency and continue to serve the printing needs of the Congress. A phase-in of the ability of Executive agencies to procure their own printing would give GPO an opportunity to restructure its business operations and adjust its personnel levels.

 Develop mechanisms to transform the role of the depository library system.

The core functions of the Superintendent of Documents—management of the public sales program and of the Federal Depository Library Program (FDLP)—must be retained. Executive branch printing policy would require the agencies to cooperate with the Superintendent of Documents by establishing the principle that adequate copies of government documents must be available for distribution to the Depository Library Program. For example, the Superintendent of Documents could make appropriate arrangements with the designated "executive agents" to ride agency print orders in precisely the same manner as is done today with the GPO. Thus, when agencies procured their printing work from a designated "executive agent," they would be spared the expense of producing the additional copies themselves.

The question of the future of the DLP is complex, as is illustrated in the recent "Study to Identify Measures Necessary for a Successful Transition to a More Electronic Federal Depository Library Program." Produced by a working group established by the Public Printer in response to the Senate Appropriations Committee's request in Senate Report 104-114 to accompany H.R. 1854, the study contains many good ideas regarding how best to manage growing amounts of electronic information in the context of the depository library program. For example, the long standing GPO partnership with the Department of Energy's Office of Science and Technical Information would actually be enhanced during the program's transition from the physical distribution of microfiche copies of technical reports to the networked distribution of electronic versions of the same reports. Not only would the product delivered remain the same high quality, but its delivery to both depository libraries and customers would be more timely and could save up to \$200,000 per year. However, on balance, we believe the study inappropriately clings to the past by emphasizing centralized control as a means to distribute electronic government information. Doing business the old way minimizes the very efficiencies brought about by interconnected computer networks. The study conjures up visions of a funnel where government information pours in yet trickles out. Rather than trying to devise ways of making the funnel work, we should question the use of the funnel at all, although we are committed to the preservation and indeed enhancement of the depository library program.

III. Our Current Policy and Approach

Where do we stand today? In April of this year, the President's Chief of Staff, Leon Panetta, issued a memorandum to Executive departments and agencies advising them to hold the line on current printing policies for the next 12 months by maximizing the use of GPO's expertise and capabilities. Agencies were told to continue to procure printing and high volume duplicating through GPO, continue normal operations of existing agency in-house printing and duplicating and cross-servicing arrangements and move forward with plans to downsize internal printing and duplicating capacity. This should provide adequate time to begin work with the Congress to craft a comprehensive revision to Title 44 as outlined above. In parallel with that effort, OMB will begin an Executive branch-wide cost-effectiveness assessment of current printing and duplicating arrangements.

See, "Study to Identify Measusres Necessary For A Successful Transition to a More Electronic Federal Depository Library Program," U.S. Government Printing Office, June 1996, p. A-85.

We believe there are cost reductions available and are committed to identifying and taking advantage of them. Please be assured that we will be consulting with

Congress throughout that assessment.

While we are prepared to maintain the status quo for the short-term, we cannot support GPO's continued control over Executive branch printing for the long-term. If asked to do so, we would be happy to work with the Congress to assist GPO in making a sound and business-like transition from its historic role as a plate-based printing manufacturing operation to a value-added service provider for those agencies needing assistance in information management and dissemination in the emerging, and eventually dominant, field of electronic media. That is were GPO should work to be as soon as it can possibly get there.

IV. An Approach to Developing a Comprehensive Reform Bill

We believe that an efficient and orderly process to reform Title 44 is possible. I am happy to report that the National Commission on Libraries and Information Science (NCLIS) has offered its good offices to facilitate such a process. This is particularly appropriate given NCLIS' unique charge to provide policy advice to both the Executive and Legislative Branches.

At a minimum, such an effort should pull together the following elements:

- An analysis of the costs associated with the various printing and dissemination technologies presently used by the government, coupled with a forecast of how those technologies and related costs will change in the future. This should be performed under contract by independent outside experts with independent verification and validation.
- An inventory of both the Executive and Legislative Branches' present printing plant and equipment, including an evaluation of expected useful life, depreciation, etc. This should be performed by agency CFOs, in cooperation with agency printing officers and the General Accounting Office.
- A plan for the consolidation and downsizing of existing in-house Executive printing capacity, using the cost and inventory data gathered. The goal is to reduce such capacity to the minimum necessary to meet requirements not capable of being met by the private sector in a timely or efficient manner. This should be developed by agency Chief Information Officers, in cooperation with agency budget officers and the Office of Management and Budget. A similar plan for the Legislative Branch could be developed by the General Accounting Office.
- A plan for the efficient procurement of printing by the government, including the designation of appropriate "executive agents" to act as purchasing agents for government printing. This should be developed by agency Procurement Executives in cooperation with the Public Printer and in consultation with the printing industry.
- A plan to ensure Depository Library access to adequate copies of printed publications, including procedures for the Superintendent of Documents to "ride" agency printing procured through the "executive agents," and for the Superintendent of Documents to receive adequate copies of publications not so procured. This should be performed by the agency printing officers in cooperation with the Superintendent of Documents.
- A plan that builds upon the findings of the FDLP Study in a manner that ensures the ability of the Depository Libraries to access the information that agencies make available in a networked environment. This plan should include an appropriate phase-in period and a study of the libraries electronic capabilities.

Conclusion

This series of hearings has identified both problems and opportunities associated with printing procurement, with the effective management of the Depository Library Program, and with the relationship between Executive branch agencies

and the GPO. We are hopeful that a good faith commitment by the Executive and Legislative branches, facilitated by the good offices of the NCLIS, can lead us

toward comprehensive reform.

We must reinvent government printing, just as we continue to reinvent much of what the government does. Only a comprehensive revision to Title 44, supported by solid information and sound analysis, has any hope of succeeding. We stand ready to embark on such a process.

The CHAIRMAN. Mr. Schroeder?

TESTIMONY OF CHRISTOPHER H. SCHROEDER, ACTING ASSISTANT ATTORNEY GENERAL, OFFICE OF LEGAL COUNSEL, DEPARTMENT OF JUSTICE, WASHINGTON,

Mr. SCHROEDER. Thank you, Mr. Chairman, Senator Pell. It is a pleasure to be here this morning to discuss with you an opinion issued by my office, the Office of Legal Counsel of the Department of Justice, in May of this year which concluded that to the extent that existing statutes require all executive branch printing and duplicating to be procured through the GPO, that those statutes violate the separation of powers principles in the Constitution and that executive branch departments and agencies are not obligated to procure printing by and through the GPO.

I have submitted a copy of the complete opinion, which I believe you already have, along with my written testimony.

The CHAIRMAN. We do indeed, and that will be a part of the

record.

[The opinion is included as Appendix D3.]

Mr. SCHROEDER. And it may be useful to you if I simply summarize the basic separation of powers problem so that it may help clarify what the implications of the opinion are and what

they are not.

The CHAIRMAN. That is very helpful. We have struggled here recently with the subject of campaign reform, and, again, constitutional principles clearly embedded in the history of this Nation are the guiding light in all campaign finance reform, and indeed, the separation of powers likewise is a problem here.

Mr. SCHROEDER. Well, that is right, and after serious review, it was our conclusion that one of the basic separation of powers

principles was at issue in this situation.

As you know, the Constitution intentionally disperses power among the three branches of Government, so that to perform legally effective acts, more than one branch has to act in coordination with another. Legislation has to be typically enacted by both Houses and then signed by the President.

In some respects as well, each branch is limited in the legally effective acts it can take to acting within its own sphere. The President, try as he or she might, cannot legislate. The courts, try

as they might, cannot grant a Presidential pardon.

The CHAIRMAN. There is a dispute as to whether or not the regulators legislate a little bit—you have heard that.

Mr. SCHROEDER. I have heard that, and it still remains the case as a constitutional matter that agencies must act under legislatively delegated power—

The CHAIRMAN. I did not mean to district you.

Mr. SCHROEDER. —so that is an example of the branches operating together. But again, to the extent you could successfully argue that agencies had acted without a legislative grant of authority, their act would run afoul of this same principle. Indeed, in the steel seizure case, the court held that President Truman could not seize the steel mills even in a time of national emergency because he did not have legislative authority.

The CHAIRMAN. By the way, wasn't that a district court opinion, originally—speaking of the prior witness?

Mr. SCHROEDER. You are pressing my memory, Senator, but it

may well have been.

And the same principle applies with respect to Congress. In significant ways, Congress' authority is plenary within the legislative sphere, but it is restricted to exercising powers within the legislative area—to enact legislation, to conduct oversight, and to perform functions in aid of those legislative powers. But it cannot perform executive functions. In several recent Supreme Court decisions, the Court has made it clear that the same limitations apply also to officers or bureaus that Congress supervises or over which it exercises significant control.

These principles in our judgment apply to the situation that currently exists statutorily with respect to the GPO. The GPO is, by wide consensus, under the direct supervision and significant control of the Congress through the Joint Committee on Printing. Printing for the executive branch is an executive function. So that for Congress to require executive agencies to procure printing through the GPO is to mandate that an officer or agency subject to the direct supervision or control of Congress perform an executive function, and that arrangement runs afoul of this principle of separation of powers.

Now, having said that, let me emphasize two things. There is no separation of powers violation or issue if the executive branch makes its own decision to employ GPO's offices or procurement procedures. In that case, the decision having been made within the executive branch, it is an executive decision made by the

executive and is consistent with separation of powers.

Conversely, Congress has ample authority to enact legislation that establishes Government printing policies and priorities and standards. It is simply the case that under our constitutional scheme, it should enact such legislation and then hand off to the executive the execution and administration of those policies, subject subsequently to the processes of oversight and appropriation control that allow the Congress to maintain

continuous oversight over activities with respect to which it has legislated.

So having, hopefully, summarized in a useful way for you what our opinion does and does not purport to do, let me stop at this point and simply stand ready to answer any questions you may have.

The CHAIRMAN. Thank you very much, Mr. Schroeder. [The prepared statement of Mr. Schroeder follows:]

PREPARED STATEMENT OF CHRISTOPHER SCHROEDER, ACTING ASSISTANT ATTORNEY GENERAL, OFFICE OF LEGAL COUNSEL, U.S. DEPARTMENT OF JUSTICE, WASHINGTON, DC

Mr. Chairman, Senator Ford, I am pleased to appear before the Senate Rules Committee today to discuss the opinion of the Office of Legal Counsel recently issued on the subject of Government Printing Office (GPO) involvement in executive branch printing. I am Chris Schroeder, Acting Assistant Attorney General for the Office of Legal Counsel. I have submitted a copy of the opinion to the Committee, and would ask that a copy of the opinion be incorporated as part of my testimony. Accordingly, I will not restate the details of that opinion, but will limit my remarks to summarizing the basic constitutional principle that provides the foundation for that opinion.

Although the doctrine of separation of powers if nowhere expressly named in the Constitution, the framers believed it to be a fundamental element of the system of government they proposed and that the people of the United States ratified. Separation of powers recognizes three distinct spheres of government—legislative, executive, and judicial—each assigned to a distinct branch of government. As its ultimate function, the doctrine serves as one of the Constitution's structural guarantees of the liberty of people. The farmers understood that the accumulation of all powers, legislative, executive and judiciary, into any one set of hands constituted tyranny. See The Federalist, No. 47, at 301 (James Madison) (Clinton Rossiter ed., 1961). To safeguard against that result, they dispersed power among the three branches of government.

Governmental structures that violate separation of powers can at times seem "innocuous," in the words of a recent Supreme Court decision that found unconstitutional a statute providing for congressional involvement in decisions of the Metropolitan Washington Airports Authority. Metropolitan Washington Airports Auth. v. Citizens for the Abatement of Aircraft Noise, Inc. (MWAA), 501 U.S. 252, 277 (1991). Nevertheless, the Court has applied the principles rigorously in order to ensure that one branch not encroach in areas outside its proper sphere, recognizing that whatever "conflicts, confusion, and discordance" inhere in that approach are necessary to preserve a form of government that "was deliberately so structured to assure full, vigorous, and open debate on the great issues affecting the people and to provide avenues for the operation of checks on the exercise of governmental power." Bowsher v. Synar, 478 U.S. 714, 722 (1986).

One such vigorously enforced principle is that legislation may not seek to vest in Congress a continuing authority to control executive functions other than through the enactment of additional legislation. This prohibition extends to attempts to vest such functions in actors who are subject to Congress's control See, e.g., MWAA; Bowsher. In the case of the GPO, the function of performing printing for the executive branch is an executive function. Specifically, the GPO controls the timing and the production of all printing work for the executive branch. 44 U.S.C. ~ 501 & note. Thus, the prohibition on Congress's exercise of executive authority clearly applies.

In addition to concluding that the function of printing for the executive branch is outside the legislative sphere, and thus subject to the principle that prevents congressional control of such functions (except by enacting further legislation), our opinion concludes that the Government Printing Office is indeed subject to the control of Congress. We cited a number of factors in support of this position.

First, there is significant judicial precedent regarding the GPO as a legislative branch entity and noting that Congress itself views the GPO as subject to congressional control through the Joint Committee on Printing (JCP). Similarly, the Comptroller General, who is himself subject to the control of Congress, has consistently regarded the GPO to be within the legislative branch. Second, the JCP exercises, pursuant to statutory authorization, direct supervisory power over a substantial array of the GPO's functions. In light of the nature of the JCP's control over the GPO and the historical relationship between Congress and the GPO, the executive branch, and particularly the Office of Legal Counsel, has consistently viewed the GPO as subject to congressional control.

Because the GPO is subject to the control of Congress and conducting printing for the executive branch is an executive function, the doctrine of separation of powers prohibits Congress from requiring that executive branch printing be

performed by the GPO.

That is a brief summary of the reasoning of our opinion. As I said at the outset, the further details of our analysis can be found in the opinion itself.

The CHAIRMAN. Dr. Johnson?

TESTIMONY OF DONALD R. JOHNSON, DIRECTOR, NATIONAL TECHNICAL INFORMATION SERVICE, DEPARTMENT OF COMMERCE, WASHINGTON, DC

Mr. JOHNSON. Thank you, Mr. Chairman. It is indeed a pleasure for me to be here today, and I really wanted to be here to confirm our commitment to work with you in every way that we can to preserve public access to Government information. We are really eager to be part of this process, and I think in many ways have felt that we have been on the outside of the process, and we want to be part of it.

I will be brief here this morning, Mr. Chairman, but before I get into a few comments of substance, let me make a few comments about who we are and what we do to help establish

our credibility.

We are part of the Department of Commerce, of course. We have about 400 Federal employees. As you know, we are located in Springfield, Virginia, just outside the beltway. Most important, we operate a clearinghouse and a permanent repository for technical information from all sources, both foreign and domestic. We organize and identify and store and retrieve information on behalf of American industry; in a nutshell, that is our role.

Our current collection includes about 2.5 million entries. It is the single most comprehensive collection of reports of the Federal Government's investment in research and development in the past 50 years. So this is where you can get at the whole collection.

Last year alone, we added about 104,000 documents to our collection, and each is added with a full searchable bibliographic record so that it can be located and reproduced when there is a demand for it. The real value of this collection is really in the potential to support the research efforts of future generations of Americans, and I think we need to look at it that way.

I should also point out that we operate entirely on a fee-for-service basis, without an annual appropriation of taxpayers' funds. So everything that I will talk about is paid for out of our ongoing revenue stream from the sale of goods and services to the public.

You will find that we have a great deal in common with the depository library system. Our statutory responsibility is to provide permanent access to Government information, and like the depository libraries, we must not abandon our constituents who will require paper or microfiche formatted materials well into the future.

But at the same time, also like the depositories, computers have penetrated every aspect of our business. Three years ago, less than one-third of our total revenue came from the sale of electronic products or services, and the remaining two-thirds was from paper-related activities. Today, that ratio is exactly reversed. Now, two-thirds of our total revenue comes from electronic activities.

Another measure of the impact is in terms of customers served. Three years ago, we interacted in a typical day—

The CHAIRMAN. Excuse me. Can you fully define "electronic activities"?

Mr. JOHNSON. We are talking, Senator, about providing bibliographic records in an electronic format so it can be made available in commercial services, like Dialog—that is one kind of electronic activity. We are talking about operating a major online information service that is accessible through the World Wide Web and through Dial-Up. We operate the largest online service in the Government; that is a revenue generator for us. We also do a lot of service support work for other Federal agencies whereby we build systems for them that will help them interact with their constituents electronically.

If you take the service work, FedWorld, our online system, and then our other electronic products such as tapes and disks and CD-ROMS, if you take that all together, it now represents two-thirds of our revenue.

The CHAIRMAN. It is all in the generic information highway concept, is it?

Mr. JOHNSON. Exactly.

The CHAIRMAN. Do you feel that you need to make some additions in that area, and there are budget constraints?

Mr. JOHNSON. It is certainly always a struggle, Senator, to finance the developments in the electronic arena because the equipment and technology is evolving so rapidly that the typical lifetime of a computer in our system is barely long enough to amortize it over a normal amortization schedule.

The CHAIRMAN. Well, that is true in private and public sectors, of course.

Mr. JOHNSON. That is right.

The CHAIRMAN. I did not mean to interrupt you.

Mr. JOHNSON. No; it is very appropriate. In fact, I am going to get at that point a little bit in terms of customers. I just started to mention that if you just take the past 3-year period, 3 years ago, we were able to interact in a typical day with about 2,000 customers. Most of these were by telephone, some were by letter, and we also received faxes and e-mail. Today we are dealing with about 50,000 customers on a typical day, and the difference is really our electronic-accessible information. Most of those additional customers are being accessed by the World Wide Web. So we are very much involved in distributing materials in that mode.

We now support nine Cabinet-level agencies, about 60 individual Federal organizations; we gateway directly or indirectly to all of the online systems in the Government. So this is the central place that people come to branch out to other kinds of electronic services in the Government.

There is an absolutely huge amount of information here. Most of it is available at no cost to the end-user and completely accessible to the depository library system.

About 5 years ago, Congress passed the American Technology Preeminence Act, and that Act has really provided us with guidance, and it has enabled much of the transition to electronic distribution that we have made in the past few years. Perhaps more important to your discussion this morning, the ATPA requires all Federal agencies to transfer to NTIS all scientific, technical and engineering information in a timely fashion. That is why we had 104,000 documents added to our collection in the past year. It is now mandatory for all agencies in Government.

Every one of those documents is organized and indexed in such a way that it will always remain available for sale to the American public. That is a requirement.

We are also specifically directed in that Act to explore and develop new electronic means of providing access to this collection, and we have taken that assignment very seriously, Senator. Very soon, it will be possible to order our documents from anywhere in the world via Internet, process the order fully automatically, retrieve the required document from storage, print it and package it for shipment without a human touching the process.

Alternatively, we can ship that image of the requested document via Internet for a printout at a remote location of the customer's choice. That system is now in place. We are working the last of the bugs out, and we should be operational within the next month or so.

The reason I brought that up with you is that I wanted to make a commitment to you. From the very beginning of our development of this automated document system, we intended to offer special access to the library system. From our point of view, this is really good business because it is the libraries that

train our next generation of users, so we are looking at this as a business investment.

Specifically, NTIS is prepared to provide the depository libraries with online access on their demand to the electronic images of federally-funded scientific, technical and engineering publications that are in our collection at no charge as often as they need them and without any time limitation, in exchange for a very simple agreement from each library that they not release the electronic file outside of the library. The reason for that, sir, is that we must sell documents from those electronic files to cover the cost of this kind of free services.

Access will be through our online search system, with no charge to the library. Virtually everything entering NTIS' system will be in electronic format within a year. We are now at about 30 percent. And currently, both the Defense Department and NASA publications are entirely available in image format, so we will begin with those.

There are a number of advantages, I think, to this offer. First of all, we are not asking for any appropriated funds to make this happen. We have existing hardware and software and telecommunications capacity that we have brought together for our own business purposes, paid for out of our own resources. NTIS has also developed working relationships with all major producers of Federal technical information. That is one of the results of the American Technology Preeminence Act, and I think that will ensure comprehensiveness in this collection.

Most of the document that you would classify as "fugitive" documents will now be available for access from the system, because our collection or intake of documents is not strictly dependent on only those that are printed through GPO. We get them all.

The CHAIRMAN. Dr. Johnson, we are about to go to some votes in the Senate circa 11 o'clock, so I feel that we have to move on. I want to ask each of our witnesses a question that is of concern to me. So, could you summarize your remaining points?

Mr. JOHNSON. I certainly will. I was about finished; I only wanted to make the point that we want to work with the Depository Library Program at GPO in this effort, and we are

prepared to do that.

I also want to point out to you that in your letter of invitation, there was an indication that there were some issues related to printing where there were concerns from the members of your committee. I am fully prepared to discuss any of those, respond to any questions that you may have in that area, and I thank you for the opportunity.

The CHAIRMAN. Thank you very much, and I must say I envy your position and the work. It is a tremendous challenge that you

have; it must be an exciting place to serve the public.

Mr. JOHNSON. It is really exciting. It is an exciting place to be. We are right at the forefront.

[The prepared statement of Mr. Johnson follows:]

PREPARED STATEMENT OF DONALD R. JOHNSON, DIRECTOR, NATIONAL TECHNICAL INFORMATION SERVICE, U.S. DEPARTMENT OF COMMERCE, WASHINGTON, DC

Mr. Chairman, Members of the Committee, it is indeed a pleasure to appear before you today to participate in this hearing on "public access to Government information in the 21st century." At the National Technical Information Service (NTIS) public access to Government information is our primary business and I am here today to confirm our commitment to work with you in every way that we can to preserve the publics access to these important information resources. The issues that are being discussed today and at your previous hearings on this subject are critical to the success of my organization in the future and we are eager to be part of this process.

Before I get into the substance of my testimony, let me make a few comments to establish who we are and what we do. NTIS is, of course, part of the US. Department of Commerce, and we have about 400 Federal employees located in Springfield, Virginia. We have maintained a clearinghouse and permanent repository for technical information from all sources, public and private, foreign and domestic, for more than one-half century. To use language directly from your letter of invitation, we organize, identify, store and retrieve information on behalf

of American industry.

Our current collection includes more than 2.5 million entries and is the single most comprehensive collection of reports of the Federal Governments investment in research and development over the past 50 years. Last year alone we added more than 104,000 documents to our collection from agencies all across Government. Each and every document is entered into our collection with a full searchable bibliographic record so the information can be readily accessed and retrieved when necessary. Most of these documents will enjoy only modest sales activity within our program with their real value in their potential to support research by future generations of scientists and engineers. In spite of these limited markets, we operate entirely on a fee-for-service basis without an annual appropriation of taxpayers funds.

NTIS shares much in common with the Depository Library system. We have statutory responsibility to provide permanent access to Government information and must not abandon our constituents who will require paper or microfiche copies of documents well into the future. Often the real costs of these services exceed the fees they command, and like the Depository Libraries, our world is changing. Computers have penetrated every aspect of our business and the impact has been dramatic. Three years ago less than one-third of our total revenue stream came from the sale of electronic products or services. The remaining two-thirds was all from paper related activities. Today the picture is almost exactly reversed. Now, two-thirds of our total revenue comes from electronic activities. It is through such electronic activities that we are able to generate the revenue that enables us to subsidize the cost of maintaining a permanent repos-

Itory of printed material and fiche.

In terms of customers served, 3 years ago we interacted in a typical day with about 2,000 customers by telephone, letter, fax and e-mail. Today we interact with as many as 50,000 customers per day. The vast majority of these new customers are served over the Internet. Our FedWorld on-line service platform hosts the broadest collection of information available in the Government today. We directly support the output of nine Cabinet-level agencies, service more than 60 individual Federal organizations, and gateway directly or indirectly to all of the Governments publicly accessible on-line systems. During this past tax season, one of our servers delivering tax forms and instruction booklets for the IRS, enjoyed nearly 2 million connections in a single day. Our traffic levels routinely exceed most commercial systems. With all of this in mind, it is important to note that NTIS still operates with the same level of staffing as we had 5 years ago. Our staff has undergone massive change in the last few years with nearly everyone requiring re-skilling and re-training to remain in our employment.

Just about 5 years ago the Congress passed the American Technology Preeminence Act into law and provided NTIS with a new set of tools that have guided and enabled much of the transition to electronic distribution that I just spoke about. In the context of the discussion here today, one of the more interesting features of the ATPA requires all Federal Agencies to transfer to NTIS all scientific, technical, and engineering information in a timely fashion. NTIS is obliged to maintain a permanent repository of these agency information products organized and indexed in such a way that they will always remain available for sale to the American public. All media formats are included in the Act and NTIS is specifically directed to explore and develop new electronic means of providing access to this collection. We have taken this assignment very seriously and have developed an in-house electronic storage and retrieval system with a capacity adequate to handle our entire sales program. Coupled with our FedWorld telecommunications platform, it will soon be possible to order documents from anywhere in the world via Internet, process the order fully automatically, retrieve the required document from storage, print it and package it for shipment. Alternatively it will also be possible to ship an image of the requested document via Internet for print-out at a remote location of the customers choice.

From the very beginning of our development of this automated document system, it had been our intention to offer special access to the Library system. For us this is good business because it is the libraries that train our next generation of customers. When the ATPA regulation for mandatory deposit of documents was promulgated 3 years ago, NTIS committed itself to providing the Depository Libraries with direct, no cost access to the system as soon as the technology was ready. This system is now operational and we are ready to begin to work directly with a small set of libraries to get the bugs out. In a recent conversation with Kennie Gill of your staff, it was suggested that we might start with the Regional Depositories as they tend to be the best equipped and could help guide us to a

smooth and efficient operation. We have a lot to learn in this area.

Specifically, NTIS is prepared to provide Depository Libraries with on-line access on demand to the electronic images of Federally funded scientific, technical and engineering publications in our collection at no charge, as often as needed, and without any time limitation in exchange for a simple agreement from each library not to release the electronic file outside the library. Access will be provided through an on-line search system with no charges to the Library for anything it ordered. Files can be downloaded and viewed or printed locally, but the library would bear the print costs. Because the science agencies are making rapid progress to migrate to electronic imaging and NTIS is within months of scanning most items it receives in paper, virtually everything entering NTIS system will be in electronic format within a year. Currently both Defense Department and NASA publications are available at NTIS in image format.

The benefits are many. First, no funds need be appropriated by Congress to make it happen. Existing hardware, software and telecommunications capacity is now being brought into full production. Future FDLP appropriations can thus be used for the direct benefit of the libraries themselves, such as providing Internet access. NTIS already has working relationships with major Federal producers of Federal technical information products in electronic form which ensures comprehensiveness. Most so-called "fugitive" documents would now be

available to the FDL's.

FDL mission to make government information available for free in local communities would be preserved. Libraries could access selected publications on demand without the burden of storing or indexing large collections or dealing with individual agencies. NTIS would absorb all costs of storage and access as a business expense paid for out of user fees from the system as a whole and not by the taxpayers. However, free access to NTIS collection would be limited to FDLs only, unlike the other plans that provide foreign and commercial sources equal access on the Web at taxpayers expense. Agencies that must sell their publications and depend on the revenue would not see FDLP as a threat under this proposal and would be unlikely to withhold information products from NTIS.

NTIS hopes to work closely with the Depository Library Program at GPO in this effort but must establish direct communications with the libraries being

served for the technical aspects to work properly. We have no desire or intention of displacing or disrupting the DPL system through these efforts. To the contrary, we are strong believers in the need to assure public access to these information products at no cost to the user while at the same time preserving our ability to operate without tax subsidy.

Your letter of invitation also suggests a strong interest in areas where some may perceive NTIS to be in conflict with Title 44 or with this committees intentions with respect to the Depository Library System. First let me clearly establish that NTIS is not in the printing or print contracting business. However, we do find it necessary to do modest amounts of printing for our own sales stock as well as for distribution jobs that we handle for others in government. Again there is an

excellent opportunity here for collaboration with the FDL and GPO.

We have no in-house ink on paper printing capability so these needs are met through contract arrangements with the private sector. It has been our practice to use the GPO contracting process as long as we can get a fair price and the turnaround meets our needs. However, this has not always been the case and we have on occasion found it necessary to go directly to a private contractor. We are prepared to guarantee this committee both here and in writing that whenever NTIS becomes the primary publisher of a government document through the use of this authority or any other arrangement we will consider it our obligation under Title 44 to be responsible to GPO to assure that the needs of the Depository Library Program are met.

Lets talk about a couple of examples that have recently been in the news. Last spring, the Bureau of Export Administration (BXA) announced that it had made comprehensive revisions to the Export regulations, the first in 40 years. They announced that the regulations would continue to be offered as a quarterly paper subscription as it always had been in the past but it would also now be available electronically. They are also published in and freely available through the Federal Register. The electronic version would be kept current with updates, be fully searchable and easily accessible from both telephone and the WorldWide Web. Historically GPO had been the exclusive government distributor of these regulations but BXA had become unhappy with the service. They were not allowed access to their own customer lists and were not even sure of how many subscribers received the \$89.00 per year service from GPO. Perhaps most significant, BXA was required to pay the entire set-up cost for the printing and for a small quantity of print for its own use. The GPO bill to BXA for FY95 was \$160,000.

NTIS has agreed to assume all responsibilities for managing the publication and distribution of these newly revised regulations. We will cover all of BXAs printing costs using our own earned revenues and run the subscription service as a self-sustaining business. The electronic on-line service has been developed with a variety of value-added features under a cost-sharing arrangement with BXA. By FY97 the electronic service will also be operating in a self-sufficient mode. NTIS has offered the Superintendent of Documents the opportunity to continue service for their 506 Depository Library customers in either paper or electronic formats. At GPOs request, 506 copies of the paper version will be delivered to GPO within a couple of weeks when they return from the printers at

no cost.

We now have more than 3000 subscribers signed up for paper shipment and about 100 electronic customers waiting for the service to be turned on around August 1st. At this point NTIS is projecting to break even financially, the taxpayers stand to save the full \$160,000 from now on plus whatever the material costs GPO for the Depository Library Program distribution. We also expect to have

improved service and a happy agency customer.

The Big Emerging Markets, 1996 Outlook published recently by the International Trade Administration offers an interesting contrast to the previous example. In this case a new information product with totally unknown market acceptance was prepared by a very well-established Government agency and scheduled to go to press near the end of the fiscal year when funds were short. We were asked if we could help them find a way to finance the publication and maximize the distribution. This was to be a large, expensive volume to produce and the market risks were high so NTIS elected to share the risks through its Joint

Venture authority under P.L.100-519. We advertised the opportunity in Commerce Business Daily and located an appropriate business partner in Bernan Press. The business agreement is quite straightforward: we agreed to collaborate on the final stage of production, marketing and distribution of the product. Bernan Press competed and contracted for the printing and NTIS agreed to split the costs by buying back sales stock at a predetermined price. Our retail sales price is \$45.00 including shipping and Bernan has priced their volume at \$39.95 plus \$4.00 shipping. Full color paper copy has been provided to GPO for 1233 Depository library customers at no cost.

Contrary to the critical comments that this committee heard from the Superintendent of Documents a few weeks ago, the BEM venture has offered the public access to a government information product that would not have been otherwise published. The cost of publication was not borne by the taxpayer and full access was enjoyed by the Depository Library Program. The BEM document is not available in the GPO sales program because they chose not to purchase stock from NTIS or Bernan, even though we offered it to them on the same terms as they

allow us to buy their stock.

I would like to complete this statement with a few thoughts about a serious concern that we at NTIS share with this Committee about the need for long term storage and access of electronic information. Broadly speaking there are three classes of electronic information that are currently being handled in very large volume within the Federal Government. The first of these are discrete documents in scientific, technical, engineering or related areas. These are the final reports or completed works that come in to the NTIS collection primarily through the ATPA process. This information stream is currently about 30 percent electronic in format when it arrives at NTIS and is rapidly changing. We anticipate that the vast majority of our incoming collection will be electronic within one year. NTIS, of course, has a statutory responsibility to maintain this information on the long term and to be prepared to serve it up on demand. We are doing pretty well here with the technical information within our reach.

The second class of information includes numeric data of all kinds. Information like satellite images, weather data, and oil exploration records that are generated in huge volume on an ongoing basis and in a technically sophisticated environment. Most of the scientific organizations that are responsible for collecting these data are also looking into issues of preservation and long-term access. Although such data are closely related to the technical information in the NTIS collection, the are not strictly speaking within the mandate of NTIS permanent repository. The data storage issues are currently getting a lot of attention from the appropri-

ate areas of government.

The third class of government information is less well defined, very broad, mostly textual but includes charts, graphs, tables, etc. Perhaps the most abundant examples are found in government hosted Web sites and bulletin boards. This information is often characterized as temporary in nature. Usually it is not in the form of discrete documents or it is incomplete or nonfinal. Typically there is no agency management blessing that indicates that the information is in any way official. Perhaps most important it is generally not well organized by time or content. We see large amounts of this kind of information put up by our agency sponsors on FedWorld as notices, announcements, bulletins and the like. Some of this information may be mirrored off-line or retained in print but we want to make sure that it is not lost to future generations, should the content of a Web site be dumped to recapture available memory. The vast majority of this information probably has little if any economic value but may be of historic importance. NTIS has a special team of acquisition experts who tour government agency Web sites on a daily basis and download any new documents that appear to be appropriate for our sales program in paper or other portable formats. Increasingly, the agency Web masters will tag documents that they want us to save for them. However, the numbers here are still small, 25 or so per week and we are only scratching the surface with those information products that mimic discrete documents. That is, they appear to be complete with some sort of official designation and have potential economic value.

Mr. Chairman, the really difficult issues of what should be saved, who should save it, and who should pay for it need serious attention. We at NTIS would be delighted to participate in further discussions on this topic.

Thank you for allowing me to present this statement here today and I will be

happy to answer any questions that you may have.

The CHAIRMAN. Now, back to Ms. Katzen. In your testimony, you noted that Mr. Panetta issued a memorandum in April of this year from the White House, advising all executive departments and agencies, and I quote, "to hold the line on current printing policies for the next 12 months by maximizing the use of GPO's expertise and capability."

Since then, however, the Office of Legal Counsel within the Department of Justice has issued a memorandum declaring the mandated use of GPO to be unconstitutional. Now, how do you

untie that dilemma?

Ms. KATZEN. Actually, I will tie them together and say that I agree with both. I have read the opinion; it was issued after Mr. Panetta's memo. But as Mr. Schroeder said this morning, while it is an unconstitutional violation of separation of powers to mandate that executive branch agencies use GPO, it is not a violation of the Constitution, nor is it inconsistent with separation of powers, for the executive branch to itself decide that it wishes to use GPO for any particular or general purposes that it may choose. And Mr. Panetta's memo was a follow-on from Dr. Rivlin's memo of the earlier year expressing such a policy preference.

We have long been looking toward a long-term solution. At the same time, we are, I think, pragmatic and trying to be conciliatory by saying that for the short term, we should continue to use GPO so that we can put that issue to one side and focus on the merits—how best to procure printing services for

the executive branch—and then proceed down that path.

In the short term, Mr. Panetta is advising the agencies as a matter of policy to use the GPO facilities.

The CHAIRMAN. I think that is a very succinct and clear response.

Ms. KATZEN. Thank you.

The CHAIRMAN. Well, given we have this problem, and you say short term versus long term, is there a group within the executive branch that is actively working to try to resolve this and indicate a course of action, and hopefully, get the concurrence of the Congress?

Ms. KATZEN. There is, but the problem is there are a lot of different groups not necessarily working in parallel together. That is why, in my written testimony, I refer to the good offices of NCLIS, the National Commission of Library Information Services, which is to advise both the Congress and the executive branch. They have asked to spearhead a study that would bring us all together.

Within the executive branch we are undertaking a study, which is mentioned in Mr. Panetta's memo, that would gather certain necessary information—

The CHAIRMAN. What is likely the time frame of that study? It seems to me that with this problem, we cannot choose up sides, executive versus legislative, and have a competition. We have got to solve this thing in the interest of the public, and hopefully, there will be a convergence of these ideas at some point in time so we can sit down as reasonable people and sort it out and establish one policy. But when do you think this study might be available?

Ms. KATZEN. Mr. Panetta had said that within a year, we would undertake this type of analysis and would—

The CHAIRMAN. Wait a minute—do you mean report your analysis, or undertake it?

Ms. KATZEN. The memo is unclear in that regard as I read it—

The CHAIRMAN. Okay. I am not going to play games.

Ms. KATZEN. As I read it, we were to begin the study at the end of a year. We have asked if we can begin sooner, and we have gotten a green light, so we are beginning sooner.

The CHAIRMAN. I do not care about politics. What I care about is the American public, for taxpayers' dollars, having the best, most reasonable and least costly access to all the things we pump out here in Washington. As I travel around, they are getting less and less interested in Washington, but nevertheless we ought to make it available.

So I am going to try to see what I can do as one person to get this thing moving so we can reach a consensus.

Ms. KATZEN. I welcome that, and we will work with you and are trying to accelerate our side of the gathering of the information and the analysis.

The CHAIRMAN. Well, Mr. Panetta is a man for whom I have a great deal of respect; he understands this institution very well, and I would hope that you and Mr. Panetta would get together and figure out what we are going to do as quickly as possible in the executive branch, and I will try, together with my colleagues, to do that in the legislative branch.

And while we are on these famous questions, let me try this one on you, Mr. Schroeder. On May 31, 1996, Mr. Dellinger, your predecessor in the Office of Legal Counsel, issued an opinion declaring that Title 44 was unconstitutional. It is my understanding that this issue had been addressed twice before by Mr. Dellinger, in 1993 and in 1994, concluding each time that Title 44 met constitutional requirements.

Can you unravel that one?

Mr. SCHROEDER. I think I can, Mr. Chairman, and I think, actually, you put your finger on it a moment ago when you said something I think we all agree with entirely, that no one wants this issue to be Congress versus the executive.

The executive historically has had to struggle with what kind of stand to take with respect to the various arrangements that have involved the GPO in a mandatory way in executive branch printing. There have been times when that mandate was by statute applied only to legislative branch printing.

The CHAIRMAN. I know, but we are talking about the body of law from which you draw conclusion. Have there been any dramatic changes in the years intervening between 1993 and

1996?

Mr. SCHROEDER. Well, there have been court decisions since the 1993 opinion that would ratify the approach we take in 1996, but I would not rely on those as representing a change of mind. I simply think that the 1993 opinion and the 1994 opinion were first addressed to a narrower question, and they also reflected an attempt, I believe, by the executive branch—

The CHAIRMAN. Time has slipped away from me. I present to you a reasonable question. Now, maybe reasonable minds can differ, but when there is one pronouncement of unconstitutionality, or constitutionality then followed by unconstitutionality, that tends to be a little confusing. So for the record, do what you can to clear it up for us, will you, please?

Mr. SCHROEDER. Well, if you can just give me 30 seconds, I will

give you a response.

The CHAIRMAN. Sure. I will give you 30 seconds.

Mr. SCHROEDER. The 1996 opinion was our first attempt, after a specific request to examine the precise question about the unconstitutionality of the arrangement, to do the thorough constitutional analysis. The earlier opinions were much briefer and were addressed primarily at a question of statutory interpretation, which we answered. Those narrowing constructions that resulted from the 1993 opinion, the 1994 memo, and the President's signing statement, were not concurred in by the Comptroller General, so the dispute was elevated, if you will. We were then asked to take a full dress look at the constitutional issue, and we reached the conclusion we reached in the May 1996 memo.

The CHAIRMAN. All right. Fair enough. I will put that for the

record.

Thank you very much. The panel has been very informative. We will now proceed with the next panel.

Thank you, ladies and gentlemen.

The CHAIRMAN. We will now proceed with the honorable Michael F. DiMario, Public Printer, and Mr. Roy Francis, Chairman, Interagency Council on Printing and Publication Services at the Department of the Interior.

What I would like to do is hear from you, Mr. Francis, and let

our wrap-up, clean-up hitter be Mr. DiMario.

Please proceed, and your statements will be put in the record in their entirety.

TESTIMONY OF ROY M. FRANCIS, CHAIRMAN, INTERAGENCY COUNCIL ON PRINTING AND PUBLICATION SERVICES, DEPARTMENT OF THE INTERIOR, WASHINGTON, DC

Mr. FRANCIS. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, I thank you for the opportunity to appear here today. It is the view of our Council that the present printing procurement system as codified in Title 44 has proven to be an effective tool in efficiently and economically fulfilling the printing needs of the Federal Government.

We believe that the current competitive approach drives the cost of printing down nationwide, Government-wide. In recent years, there has been discussion of decentralizing the procurement of printing and allowing competition with the GPO. Our Council is not yet convinced that this is an area where services should be decentralized.

One of the responsibilities we have as printing officers and managers is to acquire printing by the lowest, most cost-effective means possible. The current competitive procurement system

affords printing officers the opportunity to do that.

GPO has nationwide access to more than 12,000 qualified printing service contractors who are capable of bidding on any prospective publication projects. This in itself effectively reduces printing procurement costs by ensuring the lowest cost for each printing procurement. While prices may fluctuate due to the changing costs of paper, inks and other supplies, the current competitive procurement system eliminates large pricing changes.

By decentralizing, if it were a possibility, the printing procurement system, we face the real possibility that some publications will not be entered into the depository library system. We as managers have tried to instill the importance and an awareness of the library system, but we realize that we are far from successful in our efforts.

Nevertheless, in our view, the current system is generally effective in seeing that publications are included in the depository library system. The system is challenged when printing is not procured through the GPO procurement system. Information handling agencies such as National Archives, Superintendent of Documents, and other executive and legislative agencies refer to documents produced outside the GPO procurement system as "fugitive documents." Fugitive documents are not generally included in the depository library system, or offered for sale in the sales program, or in some cases even included in our National Archives.

Fugitive documents are a major concern to most printing officers and managers. It is more difficult to manage and ensure

that information in paper format is available to the American public when it does not flow through a central location for dissemination.

The CHAIRMAN. Let me stop you there. I admire you for standing up and making a statement like that, because that is the heart of the problem. So what are you doing about it within the executive branch, this fugitive problem?

Mr. FRANCIS. We are doing our best, Senator, at educating people of the importance and the necessity of the depository

library system.

The CHAIRMAN. Well, you know, spare the rod, spoil the child. Now, you are trying to educate, but when they continue to do it, what do you do then?

Mr. FRANCIS. Again, Senator, as managers, we do the best we can to impart to our people the importance of Title 44 and the responsibilities that people have to get the information to the public.

The CHAIRMAN. The buck stops here, a famous statement.

Mr. FRANCIS. Yes, sir.

The CHAIRMAN. Harry Truman—we were just talking about the Youngstown case, where the court said the buck stops on the court's desk, by the way, and it was a district court opinion.

Mr. FRANCIS. Yes, sir.

The CHAIRMAN. The point is are you getting cooperation—the President has bigger responsibilities, and I am not singling out our current President because this thing has been a problem through a series of Presidencies—am I correct in that?

Mr. FRANCIS. Yes, Senator.

The CHAIRMAN. So it is not a partisan issue. Do you feel that the White House has given you the backup you need to try to put discipline in this system—by the way, they have all left the room.

[Laughter.]

Mr. FRANCIS. Thank you, Senator.

The CHAIRMAN. Of course, there is the small item of a camera

here that seems to be grinding on.

Mr. Francis. It is difficult to answer that question. The perspective that I am approaching you with is the perspective of a printing officer and a printing manager. It is a little different perspective being down with the worker bees, if you will. Many of our printing officers and our printing people in the agencies know the value of the depository library system, and they value the advertising and the dissemination of the information that they can get out of the depository library system.

The problem arises when it goes beyond the printing office or the printing manager, and an office or a program takes it upon itself to produce and distribute a publication to its own

audience.

The CHAIRMAN. I can tell you, you strike me as being a very conscientious civil servant, and I am really putting a question to you that is somewhat above your pay grade, and I think you have

been very honest in your responses. There has just got to be a meeting at the summit—everything seems to be decided worldwide at summit meetings—between the appropriate leadership in the executive and legislative branches, to decide on a policy and to determine how that policy can quite appropriately fit within a framework of constitutionality. I think that is about where we are headed.

Mr. FRANCIS. Yes, sir.

The CHAIRMAN. Okay. Now, you go on back to your prepared statement; I will ease up on you a little bit.

Mr. FRANCIS. That is okay. I welcome that, Senator, because it

gets things out on the floor.

The CHAIRMAN. Well, you are trying to do a job, and I am sure it is a bit frustrating.

Mr. FRANCIS. Yes, sir; yes, sir, it is.

As I said, it is more difficult with the fugitive documents for a printing officer to manage the information being made available to the public.

The current system that we have once assured that, and any system that Congress would consider in the future, as you and I have just discussed, Senator, we would hope would be at least as

strong or stronger.

The dissemination of electronic information to the American public is another major concern. This concern is still in development stages as the industry develops. In my own efforts as a member of the Depository Library Study Group, I found that there is a lack of awareness about the depository library system in the electronic publishing field. At first blush, some in that field tend to think that if a document is posted on the Internet, the commitment to the American people is fulfilled. This is a real concern at present because not all Americans have computers or the opportunity to access the Internet. Electronic publishing should be a program of evolution. The American public should not be cut out of the information cycle simply because they do not have a computer or access to a computer.

Information management and dissemination to the American people are very important responsibilities. Please be assured that my Council is at your disposal to help you in any way we can,

sir.

Mr. Chairman, that concludes my remarks. Again, I was very brief, and I will answer any further questions you may have.

The CHAIRMAN. You may have been brief, but you came to the point. There is no doubt in this Senator's mind, nor I think in the minds of those listening to the problem, what the problem is and that you yourself are trying to do the very best you can to remedy it.

Mr. FRANCIS. Thank you, Senator.

The CHAIRMAN. The bottom line is that the citizen taxpayers are entitled to this information, and to the extent there is this

"fugitive"—"pirating," I suppose you might say, they are being denied that. Is that about right?

Mr. FRANCIS. That is absolutely correct, Senator. The CHAIRMAN. Good. Thank you very much. [The prepared statement of Mr. Francis follows:]

PREPARED STATEMENT OF ROY M. FRANCIS, CHAIRMAN, INTERAGENCY COUNCIL ON PRINTING AND PUBLICATIONS SERVICES, WASHINGTON, DC

Mr. Chairman and members of the Committee, I thank you for the opportunity to appear here today to present testimony regarding Public Access to Government Information in the 21st Century. I am here on behalf of the Interagency Council on Printing and Publications Services, which is made up of Printing Officers and managers representing many Federal agencies both Legislative and Executive. This Council is very much in favor of and welcomes a review of Title 44 U.S. Code, the Government Printing Office (GPO) and the Depository Library system. I am here to offer the services of this interagency Council to this Committee should you require further assistance in your efforts.

Mr. Chairman, the Council recognizes the need to review Title 44, the GPO and the Depository Library system. We recommend that the Committee carefully consider the many advantages that have been afforded by the current system of centralized procurement and dissemination of Government printed information realized over the years. We welcome the opportunity to offer our views on the current practice of handling printing procurement through the GPO and dissemination of information either printed or electronic to the Depository Library system.

Printing Procurement

In the view of our Council, the present printing procurement system as codified in Title 44 has proven to be an effective tool in efficiently and economically fulfilling printing needs of the Federal Government. We believe the current competitive approach drives the cost of printing down and effectively lowers the overall cost in printing procurement Governmentwide. In addition, the GPO offers many crosscutting services, other than print on paper, that no other one agency alone can easily provide.

In recent years there has been discussion about decentralizing the procurement of printing and allowing competition with the GPO. Our Council is not yet convinced that this is an area where services should be decentralized. One of the responsibilities we as Printing Officers and managers have is to acquire printing by the lowest, most cost-effective means possible. In these times of fiscal constraint Printing Officers must manage their printing procurement in such a way that the agency may attempt to continue to fulfill all of its required printing with fewer funds being made available. The current competitive procurement system affords Printing Officers and Managers the opportunity to do that. GPO has nationwide access to more than 12,000 qualified printing service contractors, who are capable of bidding on prospective publications. This in itself effectively reduces printing procurement costs by ensuring the lowest cost for each printing procurement. While prices may fluctuate due to the changing costs of paper, inks, and other supplies involved in the process, the current competitive procurement system eliminates large pricing changes.

This does not mean that there is no room for improvement or that the current system is perfect. There are many issues we face every day as managers that we believe may be outdated, such as the use of color in publications, the use of papers other than those identified by the Joint Committee on Printing for use in Government publications, and communication between client and contractor. The uses of color inks or particular stocks are perceived to be budget driven issues which may be better addressed by the agency impacted than imposed by the Joint Committee on Printing. The GPO has made great strides in recognizing the need for client/contractor communication, and we applaud that, but there is a need to carry that kind of commitment to system improvement further in an

effort to allow agencies to use some judgment in how publications are produced. Another major concern is the long lead time required to procure a printing request through the GPO. Often the time required for a normal procurement is approximately 4 to 6 weeks. No matter how economical or efficient the system is, it must be able to accommodate a faster turnaround of documents without increasing costs to the customer. If we are to be successful in managing our programs, there must be workable parameters and creating those parameters should include input from the people impacted by them. We believe that this Committee has shown that commitment by holding these hearings and hopefully that commitment will continue by including agency input in further review of Title 44. We believe that the best way to ensure use of GPO services is to improve the system, which in turn will attract users into the system.

Dissemination of Information to the Depository Library System

As stated earlier, we have a responsibility to provide Government information to the American people. Through the current centralized printing procurement system, Congress has sought to ensure that government publications for public use are made available to the public. Currently the GPO offers one of the most comprehensive information dissemination systems anywhere. Each document submitted to the GPO is processed, procured, and directed to the Depository Library system. If printing procurement are decentralized there must be some assurance that these same principles of providing Government information and public access are maintained.

By decentralizing the printing procurement system, we face the real possibility that some publications will not be entered into the Depository Library system. We as managers have tried to instill the importance and an awareness of the library system, but we realize that we are far from successful in our efforts. Nevertheless, in our view, the current system is generally effective in seeing that publications are included in the Depository Library system. The system is challenged when printing is procured outside the GPO procurement system. Information handling agencies such as National Archives and records Administration, and the Superintendent of Documents, as well as agencies within the executive and legislative branches, refer to documents produced outside the GPO procurement system as fugitive documents. Fugitive documents are generally not included in the Depository Library system, offered for sale in the Sales Program, or in some case even included in our National Archives. Fugitive documents are a major concern to osmose Printing Officers and managers. It is more difficult to manage and ensure that information in paper format is available to the American public when it does not flow through a central location for dissemination. Public access and fugitive documents were issues constantly raised in the Federal Depository Library Study Group, of which I was also a member. For a Printing Officer or manager, it is again extremely difficult to ensure that information is being made available to the public without some sort of assurance or managed program to facilitate that responsibility. The current system once offered that assurance; any system that the Congress would consider to replace it should be at least as strong or stronger.

The dissemination of electronic information to the American public is another major concern which is still in development stages. In my own efforts as a member of the Depository Library Study Group, I found that there is a lack of awareness about the Depository Library system in the electronic publishing field. At first blush, some in that field tend to think that if a document is posted on the Internet, the commitment to the American people is fulfilled. This is a real concern at present because not all Americans have computers or the opportunity to access the Internet. Electronic publishing should be a program of evolution. The American public should not be cut out of the information cycle simply

because they do not have a computer or access to a computer.

Conclusion

Mr. Chairman, in conclusion, I would like to emphasize that the Council offers this input so that the Committee will understand what Printing Officers and managers face every day in trying to maintain efficiencies in their printing and

information dissemination programs. Information management and dissemination of that information to the American people are very important responsibilities. Please be assured that the Council is at your disposal and will assist you in any way possible in your efforts to review public access to Government information.

Mr. Chairman, this concludes my prepared remarks. However, I would be pleased to answer any questions you or other members of the committee may have.

The CHAIRMAN. Now, Mr. DiMario, what is the solution?

TESTIMONY OF MICHAEL F. DIMARIO, PUBLIC PRINTER, U.S. GOVERNMENT PRINTING OFFICE, WASHINGTON, DC

Mr. DIMARIO. Mr. Chairman, Members of the Committee, thank you for inviting me to present the views of the Government Printing Office on public access to Government information in the 21st century. In the interest of time, I will summarize my prepared remarks, which have been submitted for the record.

Mr. Chairman, I commend you and Senator Ford for holding these hearings. I believe this kind of legislative oversight of the Government's key information programs in GPO is critical.

Already, we are seeing results. Last week, the Superintendent of Documents was supplied with approximately 1,300 copies of "Big Emerging Markets" for distribution to depository libraries nationwide. Those publications came to us directly as a result of this committee's actions. We appreciate that, and so does the public that uses the depository libraries.

For more than a century, GPO has served as the Government's printer and publications distributor, providing prompt and economical printing and reproduction services as well as comprehensive and equitable dissemination of the Government's information products that have public interest or educational value.

Today, some observers are advocating a major overhaul of Title 44, but there is no consensus on the direction reform should take. Some want to privatize all Government printing. Others want to decentralize printing and distribution authority. This is the case not only with the executive branch, but with the House of Representatives. Still others advocate a new Federal information policy based principally, if not solely, on electronic technology.

Recently, the Justice Department's Office of Legal Counsel issued a memorandum opinion claiming that GPO's "extensive control" over executive branch printing and duplicating violates the constitutional principle of separation of powers. I do not agree with this opinion. I think it was wrongly decided, and I think it sends the wrong message to agencies and the public.

The CHAIRMAN. When you are in disagreement, is that a matter of law or policy—how would you define "disagreement"?

Mr. DIMARIO. Although I am a lawyer and personally disagree with it from a matter of legal principle, I have not really gone into the case law to examine that, so I am basing it on a view of the existing principles, that the Government Printing Office acts in an administrative way, and we do not act in a way that establishes any policy judgment over executive branch action. And as a consequence of that, I do not believe that we are acting in the capacity of a legislative body. We are acting, while in the legislative branch, in a purely ministerial way to execute the law.

The CHAIRMAN. All right. I understand. Please proceed.

Mr. DIMARIO. And I cover that in my statement, where I say precisely the same thing, so I will skip that part of the statement.

By signaling that the Justice Department will not uphold the law, the message is being sent that there is no need for economy in public printing and that providing effective public access is a

secondary concern.

Nearly 2 years ago, the administration reached an agreement with Congress to maintain the status quo regarding printing and duplicating arrangements until a legislative approach to the reform of Federal printing could be worked out. It specified a number of policies, including that all printing procurement should be conducted through GPO to the extent required by law, that existing agency in-plant operations could continue but not expand, and that all publications required by law should be made available to the Federal Depository Library Program.

The agreement was reiterated in an April 1996 memo from Mr. Leon Panetta, the White House Chief of Staff, to the heads of all executive departments and agencies. I think this is a far more constructive approach to a possible reform of Title 44 than the

one taken by the Justice Department.

Mr. Chairman, simply because a law has been on the books for many years does not mean that it is no longer relevant. I agree that there is room for improvement in the statutes. I am well aware of the views of GPO's critics, and I agree that we need to take the opportunity now to make changes that will address those concerns, to the extent the changes do not conflict with the overall goal of achieving taxpayer savings and promoting public access. But I do not think that a sweeping overhaul of the laws is necessary or even desirable to achieve this. I think many changes can be accommodated within the current general structure of the law.

GPO has moved between 75 and 80 percent of all printing we handle out the door to private contractors without changing the law. If Congress decides it wants the Congressional Record and other legislative documents turned over to the private sector, the law would not have to be changed, although Congress would have to be prepared to pay more and relinquish a considerable amount of control.

While some changes to reflect the impact of electronic information technology are needed, I also think technology

poses less of a challenge to Title 44 than the conventional wisdom suggests. The nature of printing itself has changed dramatically over the past two decades. GPO has not only kept up with those changes, but helped lead many of them. This progress has been and can continue to be accomplished within the structure of the current law.

The single most important change to Title 44 we have needed was statutory clarification of our role in electronic information dissemination, and that was achieved, through the leadership of this committee, with the passage of the GPO Electronic Information Access Enhancement Act of 1993. The GPO Access service, which now is used by more than 2 million people every month, has shown that we can successfully participate in the electronic dissemination arena.

As the recently concluded "Study to Identify Measures Necessary for a Successful Transition to a More Electronic Federal Depository Library Program" found, the Access service can now be used as the platform to move the Federal Depository Library Program into the electronic future, representing a major step forward in Federal information dissemination policy. Some adjustments to Chapter 19 of Title 44 are needed to facilitate the transition, but I do not think that electronic technology itself necessarily spells the end of Title 44.

There are other changes that could be made to the law to address specific requirements, and these are detailed in my prepared statement. I will mention now that I think the transfer of certain JCP authorities to the Public Printer would obviate the Justice Department's constitutional concerns.

But the principal structure of Title 44—a centrally managed printing, printing procurement, and documents dissemination capability, providing localized service through a nationwide network of procurement offices, bookstores and other operations—should remain in place. It simply saves too much money for the taxpayers and performs too valuable a service for public access to be done away with.

With the growing use of electronics, there is the temptation to say that the Government no longer needs a printing capability. I think this temptation should be resisted. Last year, we produced over \$800 million in printing services, and printing is still a major avenue of communication between the Government and the public.

The transition to full electronics is certainly coming, but it is a long way off. We need to manage that transition effectively. Maintaining a cost-effective printing and dissemination capability for the foreseeable future gives us an important management tool.

A major issue confronting Title 44 is a failure on the part of executive branch agencies to comply with the law. This committee has already heard testimony—

The CHAIRMAN. Just repeat that sentence; that is the heart of the entire issue.

Mr. DIMARIO. A major issue confronting Title 44 is a failure on the part of executive branch agencies to comply with the law.

The CHAIRMAN. It is really a failure on the part of how we, the current public servants in both the executive and legislative branches, are failing in our responsibilities. It is our failure. In other words, the buck stops right up here in the Congress as well as the executive branch.

Excuse me for interrupting, but that is the heart of it right there.

Mr. DIMARIO. Yes, sir, and I agree with that.

The CHAIRMAN. And the law seems to be clear—now, there may be a constitutional question, but we had better solve this thing, because my first question to both of you is going to be can you give us some estimate of the volume of fugitive material which is now being denied, one way or another, to the public.

Mr. DIMARIO. I cannot give you a real, true estimate. I can simply tell you that GPO does less than half of the total printing requirements for the Federal Government. So if our current volume is in the range of \$800 million, then you have an approximate similar value that is not coming through GPO, and that includes a lot of fugitive documents.

The CHAIRMAN. And I will turn to you, Mr. Francis, momentarily, but let us have the distinguished Public Printer finish his statement.

Mr. DIMARIO. This committee has already heard testimony on the consequences of increased agency control over their publications from GPO's Superintendent of Documents. Another problem is the growth of underutilized capacity in agency plants, and the natural tendency of agencies to try to keep that capacity occupied with work which otherwise should be

procured through GPO.

To address this problem, Congress or OMB could require a review of executive agency printing plants. The review should not necessarily be designed to close down all agency printing capacity, as the printing industry has suggested. We know that there is a need in the agencies for a capability to produce quick-turnaround printing to support administrative operations, and we do not have a problem with that. We also do not have a problem with certain agencies, such as the national security agencies, having the authority to produce their own printing in-plant when doing so is clearly in the national or public interest.

The problem comes when capability established for simple internal administrative purposes is expanded to produce printing needs that are more cost-effectively performed through GPO's procurement program, and when agencies fail or refuse to provide publications produced internally for public distribution through GPO's programs.

The objective of a review should be to ensure that agencies are equipped with only the capacity necessary to fulfill either their own limited administrative needs or, as in the case of the General Services Administration, to support the limited internal administrative needs of multiple agencies grouped in close physical proximity through the central administrative support units, or CASU's, or similar concept. GPO can assist in this review.

Congress should also review the way some agencies have expanded their limited authorities, gained either through statute or by waivers from the JCP, into significant printing and dissemination operations that undermine the letter and spirit of Title 44.

In summary, I urge this committee to critically examine the various proposals to amend Title 44 that have been advanced to date and to balance them against the public benefits that Title 44 currently achieves. There are changes that can be made within the structure of Title 44 that would be responsive to many of the concerns that have been raised, but care needs to be taken that they do not cancel out the benefits achieved by the current system.

Mr. Chairman, that ends my statement. I would be pleased to answer any questions. What I would like to do, also, is submit for the record some letters that we have received from executive agencies about GPO's work, and in particular a letter from Alice Rivlin as Director of OMB on April 22, 1996, where she praises GPO's work in response to the preparation of the President's budget. And there are other letters in here that are equally relevant.

[The letters are included as Appendix D4. The prepared statement of Mr. DiMario follows:]

Prepared Statement of Michael F. DiMario, Public Printer, U.S. Government Printing Office, Washington, DC

Mr. Chairman and Members of the Committee, thank you for inviting me to present the views of the Government Printing Office (GPO) on public access to Government information in the 21st century. My views concern proposals to reform the public printing and documents statutes of Title 44 of the U.S. Code, GPO's authorizing law.

For more than a century GPO has served as the Government's printer and publications distributor, providing prompt and economical printing and reproduction services as well as comprehensive and equitable dissemination of the Government's information products that have public interest or educational value.

Today, some observers are advocating a major overhaul of Title 44, but there is no consensus on the direction reform should take. Some want to privatize all Government printing. Others want to decentralize printing and distribution authority. This is the case not only with the executive branch, but with the House of Representatives. Still others advocate a new Federal information policy based principally, if not solely, on electronic technology.

To date, four bills have been introduced in the House of Representatives to accomplish these goals, in different ways, although none has emerged from committee. A draft bill to establish an electronic Federal Depository Library

Program (FDLP) has been circulated by the Office of Management and Budget (OMB) to several Members of Congress, including the leadership of this Committee, but it has not been introduced. The House Oversight Committee recently approved a House Document Management Plan that would essentially result in the transfer of those GPO congressional printing functions that support the House to the House itself. Some agencies have apparently decided to take matters into their own hands and have started using joint ventures with private sector publishers to produce their publications. As the Superintendent of Documents described to this Committee in the hearing on June 18, 1996, these measures are resulting in copyright or copyright-like restrictions on dissemination, undermining the central purpose of Title 44 to make public information publicly available.

Recently, the Justice Department's Office of Legal Counsel issued a memorandum opinion claiming that GPO's "extensive control" over executive branch printing and duplicating violates the constitutional principle of separation of powers. The opinion underscores the goal of the National Performance Review

(NPR) to allow the executive branch to establish its own printing policy.

I do not agree with this opinion. I think it was wrongly decided, and I think it sends the wrong message to agencies and the public. GPO does not have "extensive control" over executive branch printing. We perform an administrative function to ensure that executive branch printing is performed economically and in the interests of the taxpayer, and to ensure that the publications are made available to the public on a comprehensive and equitable basis. By signaling that the Justice Department will not uphold the law, the message is being sent that there is no need for economy in public printing, and that providing effective public access is a secondary concern.

In September 1994, the Administration reached an agreement with Congress to maintain the status quo regarding printing and duplicating arrangements for fiscal year 1995 until the leadership of the congressional committees of jurisdiction and the Administration worked out a legislative approach to reform Federal printing. It specified a number of policies, including that all printing procurement should be conducted through GPO to the extent required by law, that existing agency inplant operations could continue but not expand, and that all publications required by law should be made available to the FDLP. Because no new legislative approach was developed, in April 1996 the White House Chief of Staff issued a memorandum that substantively reiterated the September 1994 agreement for the ensuing 12 months. I think this is a far more constructive approach to a possible reform of Title 44 than the one taken by the Justice Department.

Simply because a law has been on the books for many years does not mean that it is a "painful anachronism," as one witness recently remarked to this Committee. I agree that there is room for improvement to the statutes. I am well aware of the views of GPO's critics, and I agree that we need to take the opportunity now to make changes that will address these concerns, to the extent the changes do not conflict with the overall goal of achieving taxpayer savings and promoting public access. But I do not think that a sweeping overhaul of the laws is necessary or even desirable to achieve this. I think many changes can be accommodated within the current general structure of the law.

To those who want to privatize, I would remind them that GPO has moved between 75 and 80 percent of all printing we handle out the door to private contractors without changing the law. If Congress decides it wants the Congressional Record and other legislative documents turned over to the private sector, the law would not have to be changed, although Congress would have to be prepared to pay more and to relinquish a considerable amount of control.

While some changes to reflect the impact of electronic information technology are needed, I also think technology poses less of a challenge to Title 44 than the conventional wisdom suggests. Within the structure of the current law, we completely converted GPO's prepress processes to electronics, increasing productivity and lowering costs. That conversion made a vast amount of downsizing possible. Twenty-two years ago there were more than 8,600 employees at GPO, with more than 1,000 in our composition division; today there are about 3,800, with fewer than 500 involved with prepress work. With the move to direct-to-

plate technology, there will be even fewer involved with prepress. The conversion also made it possible for GPO to move directly into CD-ROM premastering and online dissemination without massive development costs.

The nature of printing itself has changed dramatically over the past two decades. GPO has not only kept up with those changes but helped to lead many of them. We are continuing to change the nature of our operations, as our fiber optic links with Capitol Hill, our assistance to agency publishers and printers, and our training programs for agency personnel all demonstrate. This progress has been and can continue to be accomplished within the structure of the current law.

The single most important change to Title 44 we have needed was statutory clarification of our role in electronic information dissemination, and that was achieved, through the leadership of this Committee, with the passage of the GPO Electronic Information Access Enhancement Act of 1993 (P.L. 103-40). That law requires us to provide online versions of the Congressional Record and the Federal Register, and to work with Federal agencies to provide other information online. I think this was a wise way to structure GPO's electronic information dissemination authority, and experience is proving that point. Our implementation of the GPO Access service, which now is used by more than 2 million people every month, has shown that GPO can successfully participate in the electronic dissemination arena. We make a large volume of congressional information available, and an increasing number of executive agencies are approaching us to offer their products and to mount their Government Information Locator Service (GILS) records on the Access service.

As the recently concluded "Study to Identify Measures Necessary For a Successful Transition to a More Electronic Federal Depository Library Program" found, the Access service can now be used as the platform to move the FDLP into the electronic future, representing a major step forward in Federal information dissemination policy. Some adjustments to chapter 19 of Title 44 are needed to facilitate the transition, but I do not think that electronic technology itself necessarily spells the end of Title 44. As the FDLP study concluded, there is an important role for a centralized entity in a distributed system to assist the public in standardizing information, providing locator and pathway services, and coordinating permanent access.

There are other changes that could be made to the law to address specific requirements. I think the transfer of certain JCP authorities to the Public Printer would obviate the Justice Department's constitutional concerns. A change in GPO's funding mechanism to allow us to finance general administrative expenses from appropriations rather than through cost-recovery from our customers would put us on an equal footing with the way other agencies are financed and reduce printing charges to Congress and agencies. Limited changes to our sales authority, such as increasing our discount authority, would allow us to manage the sales program more effectively. GPO's name should be changed to recognize our involvement with a broad range of information dissemination strategies, and outdated or archaic provisions of the law—such as references to stereotype plates—should be dispensed with.

But the principal structure of Title 44—a centrally managed printing, printing procurement, and documents dissemination capability, providing localized service through a nationwide network of procurement offices, bookstores, and other operations—should remain in place. It simply saves too much money for the taxpayers and performs too valuable a service for public access to be done away with. In none of the proposals for change that have been offered to date are there the kind of benefits that Title 44 and GPO currently provide.

In our production plant, Congress has direct control over a cost-effective system for obtaining printing that is essential to the orderly conduct of legislative business. In our Printing Procurement Program, which works directly with the printing industry, the agencies have immediate access to one of the Government's most successful public sector/private sector partnerships for obtaining their printing needs at highly competitive prices. In GPO's Superintendent of Documents programs, the public has a single, highly visible system to provide comprehensive and equitable access to the vast wealth of information produced by the Government in both print and electronic format through depository libraries

and over the Internet as well as through our sales program. Under the proposals I have seen to date, many of these benefits would be reduced if not lost.

With the growing use of electronics, there is the temptation to say that the Government no longer needs a printing capability. I think this temptation should be resisted. Last year, we produced over \$800 million in printing services (and that is only about half of all the printing the Government produces), sold some \$80 million worth of documents, and distributed tens of thousands of titles to depository libraries. We measured the printing of congressional publications alone at approximately 2 billion units, or copy-pages. Tax forms, press releases, passports, informational pamphlets and books, regulations, statutes, statistical data, and more—in printed form these documents represent a major avenue of communication between the Government and the public.

Moreover, printing remains an effective safeguard for ensuring that those without access to computers—and there are many—can still use Government information, and for guaranteeing permanence. The transition to full electronics is certainly coming, but it is a long way off. We need to manage that transition effectively, and maintaining a cost-effective printing and dissemination capabil-

ity for the foreseeable future gives us an important management tool.

A major issue confronting Title 44 is a failure on the part of executive branch agencies to comply with the law. This Committee has already heard testimony on the consequences of increased agency control over their publications from GPO's Superintendent of Documents. Another problem is the growth of underutilized capacity in agency plants, and the natural tendency of agencies to try to keep that capacity occupied with work which otherwise should be procured through GPO. To ensure taxpayer savings and equitable public access requires vigilance by Congress over the performance of agency printing and dissemination capabilities. This hearing is a good example of what I am talking about.

There are other things Congress can do. It can require a review of executive agency printing plants. The review should not necessarily be designed to close down all agency printing capacity, as the printing industry has suggested. We know that there is a need in the agencies for a capability to produce quick turnaround printing to support administrative operations, and we do not have a problem with that. We also do not have a problem with certain agencies, such as the national security agencies, having the authority to produce their own printing

inplant when doing so is clearly in the national or public interest.

The problem comes when capability established for simple internal administrative purposes is expanded to produce printing needs that are more cost-effectively performed through GPO's procurement program, and when agencies fail or refuse to provide publications produced internally for public distribution through GPO's programs. The objective of a review—and it could be conducted by OMB as well as Congress—should be to ensure that agencies are equipped with only the capacity necessary to fulfill either their own limited administrative needs or, as in the case of the General Services Administration (GSA), to support the limited internal administrative needs of multiple agencies grouped in close physical proximity through the central administrative support unit (CASU) or similar concept. GPO can assist in this review. Congress should also review the way some agencies have expanded their limited authorities, gained either through statute or by waivers from the JCP, into significant printing and dissemination operations that undermine the letter and spirit of Title 44.

In summary, I urge this Committee to critically examine the various proposals to amend Title 44 that have been advanced to date and to balance them against the public benefits that Title 44 currently achieves. Congress took a positive step forward when it enacted the "panoply of reforms," as one observer has put it, that constitute the current public printing and documents statutes. There are changes that can be made within the structure of Title 44 that would be responsive to many of the concerns that have been raised, but care needs to be taken that

they do not cancel out the benefits achieved by the current system.

Privatization Proposals

I testified on current privatization proposals, contained principally in H.R. 1024, before the House Oversight Committee on August 1, 1995. As I stated at

that time, between 75 and 80 percent of GPO printing is already contracted out; privatization proposals target congressional printing primarily. Privatizing congressional printing would have a strong potential for leading to increased costs. Congress's control over its printing is also likely to be compromised.

Earlier, on February 2, 1995, in testimony before the House Subcommittee on Legislative Appropriations, former Public Printer Thomas McCormick, appointed by President Nixon, and former Public Printer John Boyle, appointed by President Carter, both disagreed that the concept of privatizing the printing GPO

performs for Congress would generate savings.

Procurement of Congressional Printing. GPO fully supports the procurement of printing that is commercially procurable, e.g., purchasable from the private sector on the same terms (timeliness, quality, and control) at less cost. However, based on long experience with Government printing, we have serious concerns about whether any savings can be achieved by procuring congressional printing. We also have concerns about the level of control that could be retained over printing that is essential to the legislative process if it is commercially procured.

It has yet to be established that Congress can procure items such as the Congressional Record and related products from the private sector on the same terms as it now receives them, at reduced cost. The historical record, although dated, shows the opposite: that when the production of congressional work was removed from the private sector and turned over to the newly created GPO, Congress realized immediate and lasting savings on printing production.

The House recently voted to require GPO to study privatizing the Congressional Record and the Federal Register. The study, however, will not be able to fully disclose what a private sector contractor's costs would likely be. Without a clear decision by Congress to procure congressional work and the consequent expectation by potential contractors that they will be held financially and legally responsible for performing the work under the estimates they have submitted, any such cost estimate should be regarded as speculative.

The volume of congressional printing would preclude all but a few of the very largest printing firms in the United States from competing for this work, since the average firm employs just 20 people, according to printing industry estimates. Widespread competition for Government printing jobs is a key factor to achieving any savings in printing procurement. Without such competition, the potential to achieve savings from the procurement of congressional work is not likely, and in fact the costs of this printing would most likely rise above current levels.

If the sense is to break up congressional printing jobs and parse out this work to a wide variety of printers, economies made achievable by the consolidated operation of GPO's electronic prepress systems are likely to be overtaken by the increased administrative burden of managing multiple procured jobs among multiple contractors. The control of congressional printing would also be a problem under such conditions. Some observers have suggested that by changing the delivery requirements of congressional printing, it could be procurable. That is probably true, but changing those requirements would also substantially lower GPO's production costs as well.

Comparison of GPO and Private Sector Costs. GPO performs congressional printing at cost, while a contractor would charge cost plus a percentage for profit. There are allegations that GPO's costs are too high for the services performed, but these allegations are usually made within the context of comparing average printers' wages drawn from around the Nation to the wages paid to GPO employ-

ees in the Washington, DC, area.

These comparisons often reveal a great deal less than they purport to. GPO is not comparable to any other printing firm in the United States, based first on the types of work GPO is required to do (book and job work, newspaper printing, and a wide range of other work). Most printers specialize in one kind of work; GPO must maintain expertise in many. As a Government agency, GPO is required by law and regulation to maintain many expensive programs and operations (Inspector General, EEO, etc.) that private sector companies are not required to have. GPO's employees are entitled by law to organize and have union representation. Most private sector companies, because of their size, are unorganized.

Compared to other organized workplaces in the Washington, DC, metropolitan area (one of the highest cost-of-living areas in the Nation), GPO's wages are not wholly out of line. Compositors' wages at the Washington Post for both day and night shifts, for example, when averaged against GPO's are in fact slightly higher; this fact needs to be weighed against data indicating that an average issue of the Congressional Record contains 4 to 6 times the amount of type as in an average metropolitan daily newspaper. Wage comparisons for press and bindery work with other area printing wage contracts also indicate much smaller disparities than has been alleged. The charge that GPO's costs are wholly out of line with costs in the printing industry in general needs to be balanced against these factors.

Comparison of the Congressional Record to a Newspaper. There is little realistic comparability between the production of the Congressional Record and the average newspaper, regardless of the newspaper's delivery system. A large metropolitan daily newspaper will run approximately 60 pages each day, and may vary from 48 to 72 pages, a much more tightly defined and consistent variation from the median than the Record. With the exception of front pages held open for late breaking news, a daily newspaper follows a schedule of rigid and consistent deadlines. Most ad space, which takes up a vast amount of newspaper space, is preset, and journalists are frequently assigned column inches for their stories. As noted above, the average Record contains 4 to 6 times the amount of type as the average metropolitan daily newspaper, which contains a high percentage of camera copy ads, photos, and other work.

A variety of unique and complex requirements drive the production of the Congressional Record. GPO must print everything that happens on the floor of Congress each day in the Record, regardless of whether the printing totals 16 pages or 400 pages. We cannot assign column inches to Members; if a Member speaks at any length on a subject, if a Senator conducts a filibuster, GPO must print every word spoken. The printing cannot occur until Members have had a chance to "revise and extend" their remarks, as is their privilege. This frequently adds new material to be printed, much of which has not been captured electronically, such as newspaper articles and clippings. The Record must contain additional materials, such as the Daily Digest, that can be compiled only when the day's proceedings are ended. Print production cannot take place until Congress has adjourned for the day or GPO makes a decision to cut the proceedings so that at least some portion of the Record will be available when the Members reconvene. In all of these respects, the production of the Record is significantly different from the production of a newspaper. Indeed, apart from the fact that both products are printed on newsprint, there is little similarity at all.

Desirability of Procuring Congressional Printing. The overriding question that needs to be addressed is the desirability of contracting out printing needs which are essential to the conduct of the Nation's legislative business. Within the context of history, this represents less a movement toward reform than it does a revisitation of the past, when congressional printing was the exclusive province of private printers.

As history discloses, contractors frequently failed to perform on time or even to complete the work, and generated enormous costs (for their time). Congress remedied these problems with the creation of the GPO in close physical proximity and under close congressional scrutiny. Government performance of this critical work also parallels the performance by many other governments of their legislative printing both among the 50 States and around the world.

GPO has taken a variety of measures, including equipment back-ups, personnel contingency plans, and paper storage, to ensure that congressional work is delivered on time when it is needed. GPO has inclement weather emergency plans to ensure the plant is always staffed and operating when Congress is in session, and a variety of security measures are in place to prevent the unauthorized disclosure of highly important congressional work. In November 1995, at the specific request of the Senate Majority Leader and the Speaker of the House of Representatives, GPO kept its production staff on duty during the Government-wide budget shutdown to provide essential printing services. As will be recalled, most Government contractors were forced to cease operations during

the budget shutdown due to lack of funding authority by the contracting agencies to continue operations. These factors must be weighed in any decision to remove the responsibility for this critical work from GPO.

House Document Management Plan. Recently, the House Oversight Committee approved a House Document Management Plan. The specific objective of this plan is to "decrease our reliance on GPO." In the resolution approving this plan, House officials are directed to work with GPO to develop a document management system, and we will provide all possible assistance. We are concerned, however, that this plan undermines the capability already resident in GPO to

The premise of the plan to provide the House with an electronic document management capability appears to overlook the initiatives GPO is undertaking to provide increased electronic document capabilities for all of Congress, particularly through the conversion of all congressional documents to Standard Generalized Markup Language (SGML). The plan apparently would rely on congressional staff for document inputting, formatting, and management, despite recent reductions in congressional staff. Also, the high turnover rate for congressional staff would tend to work against the effectiveness of training efforts to operate the document management system. It is unclear from the plan what would happen to existing electronic interfaces with the Appropriations Committee, the House Office of Legislative Counsel, House Information Resources, and the Office of Law Revision Counsel.

Where public dissemination is concerned, the document management system apparently would utilize the Library of Congress's THOMAS information system, leaving in question the provision of access to key House documents, including the House portion of the Congressional Record, through GPO's Access service, which is required by law to provide public online access to the Record.

National Performance Review

The concept of decentralizing Government both the management and the conduct of printing authority to Federal agencies has a number of problems. On February 3, 1994, I testified before this Committee on proposals by the NPR to "reinvent" public printing by decentralizing authority, stating that they would have negative impacts on costs and public access. I was joined in this view by the representatives of the printing industry and the library community.

Earlier, during the 103d Congress, the House considered legislation that essentially would have implemented the recommendations of the NPR with respect to GPO. The recommendations were amended substantially before they were passed

by the House, however, and the Senate did not take them up.

"Monopoly" Characterization is Inaccurate. Proposals for decentralizing Government printing in the executive branch are targeted at ending GPO's so-called "monopoly" on Government printing. However, a monopoly confers on an organization the means to exercise exclusive control over the provision of a specific commodity. GPO cannot be accurately characterized as exercising this kind of

control over Government printing.

GPO is not the only organization providing Government printing. Only half of all Government printing, as measured by OMB in the U.S. Budget, is produced by or through GPO. There are at least 145 printing plants operated by other Federal agencies under the authority of waivers originally issued by the JCP pursuant to Title 44. In addition, agencies most likely also operate a number of other printing and duplicating facilities, as OMB has found in the past. Title 44 (and to a limited extent other legislation in section 207 of the Legislative Branch Appropriations Act) contain provisions for agencies to contract for their own printing, and there are also a number of agencies, such as the national security agencies, that are authorized by law to perform their own printing. The claim that GPO is a "monopoly," therefore, has no basis in fact.

It also has no basis because exclusive control over printing prices is denied to GPO in the area of printing procurement. The prices of the work performed by thousands of commercial printers for GPO are determined by the competitive forces of the marketplace, not by GPO, which adds only a marginal surcharge to cover the costs of procurement services. Most executive branch printing sent to

GPO is purchased from the private sector, subjecting the vast majority of all Government printing to intensely competitive economic forces rather than any kind of monopolistic control.

Finally, the way we conduct business for executive branch customers undermines the claim that GPO is a "monopoly." GPO's mission is to fulfill the customer's printing needs. To do so we provide a capability to produce over 100 different products and services ("books" alone constitute only one such product category), and we maintain an extensive equipment line, a sophisticated range of graphic design services, a highly trained production and procurement workforce, a master bid list of a vastly diversified range of printing providers in the private sector, and specialists in marketing, sales, and other Government information mechanisms to help meet agency printing and dissemination requirements. The capability to provide such a diversified range of products and services-regardless of how uneconomical some of these capabilities may occasionally be to maintain—is not the hallmark of a monopoly, which typically bends customer demand to suit its needs.

Comparison of GPO and GSA as Procurement Models. The question has been raised whether agencies might not be better off procuring their own printing, just as they are able to procure items that they formerly were required to obtain through the GSA. However, the use of GSA as a model for comparison to GPO's procurement operation has a number of limitations.

GSA uses the Federal Acquisition Regulation (FAR) in conducting procurements. GPO utilizes its own Printing Procurement Regulation (PPR), which ensures a greater degree of flexibility and timeliness in printing procurements than the FAR. GSA buys "off-the-shelf" items, some of which are relatively easy to obtain through other channels. GPO, by contrast, is involved only in the procurement of printing, which is essentially a custom product since the specifications

of each job vary widely, and it must be timely to have value.

Buying printing is not like buying paper clips. A knowledge of printing requirements and processes is essential to ensuring the best possible value. GPO printing specifications are developed by knowledgeable printing experts. There are cases in which agencies have ended up paying exorbitant prices for printing they have procured themselves. For example, the national news media recently reported that the Department of Labor incurred a \$30,000 printing bill for copying services that would have cost approximately one-tenth that amount if procured with the same requirements through GPO, and approximately \$500 if procured through GPO utilizing GPO-recommended cost-saving measures. Thus, comparing GSA's operation, which buys many things, with GPO's, which buys only printing, does not fully address the possible impacts of decentralizing printing procurement authority back to Federal agencies.

The decentralization of printing procurement authority is likely to significantly increase the costs of Federal printing. With such authority, agencies are likely to choose to produce much of their printing in-house, which several studies have shown is more expensive than procuring printing from the private sector. For those agencies that choose to procure printing, increased costs are also likely. It would be extremely costly for each agency to maintain the range of procurement services that GPO provides. GPO maintains a significant universe of competitors (10,000 private sector printers) that would be difficult for each agency to maintain. Without it, competition would decrease and prices would be likely to rise. In an environment of reduced competition, there are also likely to be increased opportunities for favoritism and corruption in Federal printing, twin evils the

GPO was originally established to prevent.

GPO offers "one-stop-shopping" to printing contractors. Without it, the contractors would be compelled to increase their sales forces to search for contracting opportunities among multiple agencies, which would increase printing costs. They would also confront the difficulties imposed by having to deal with a multitude of solicitation formats, a problem that is overcome by GPO's standardized procurement solicitation packages. GPO offers a package of contracting services. We review requisitions and offer suggestions for economizing; develop specifications; compete, award, and administer contracts; perform press inspections and other on-site reviews to assure quality; perform quality control reviews utilizing a unique program that quantifies quality ranking factors that has become widely recognized throughout the industry; provide voucher examination and payment services; provide legal advice on contracting; and make available a dispute resolution service through GPO's Board of Contract Appeals. For every agency to provide a similar scope of services would result in increased printing costs.

In a centralized procurement system, GPO can ensure that Federal printing procurements are conducted in concert with pertinent statutory requirements, such as requirements for the use of recycled paper and vegetable inks, and can ensure that printed products are placed in the appropriate dissemination programs, such as the FDLP. For these reasons, a decentralized printing procurement

program has several distinct disadvantages.

Justice Department Opinion. I do not concur with the view of the Department of Justice's (DOJ) Office of Legal Counsel that GPO has an "extensive control" over executive branch printing that renders our operations unconstitutional. We handle executive work in a purely ministerial capacity. We cannot refuse to fulfill an executive branch requisition for printing. We have no control over the editorial or informational content of executive branch publications. Our job is only to ensure that printing requisitions are fulfilled in the most cost-effective and timely manner possible, and to provide for the comprehensive and equitable dissemination of Government information to the public through copies of publications purchased with GPO funds.

These functions are performed under the authority of the Public Printer who, like members of the Cabinet, heads of executive branch agencies, and other high level Federal officials, is appointed by the President and confirmed by the Senate

and serves solely at the pleasure of the President.

Under the law, the Public Printer maintains no veto authority over executive branch work. This view was expressed in a September 13, 1993, memorandum of the DOJ Office of Legal Counsel. At that time, the Office of Legal Counsel said that the requirement contained in section 207 of the Legislative Branch Appropriations Act [which was re-enacted and is currently at P.L. 103-283] for agencies to procure printing by or through GPO:

does not violate the separation of powers by delegating executive authority to the GPO...It does not give the GPO authority to refuse to print any materials, but merely requires that printing be procured "by and through" the GPO. Moreover, because 44 U.S.C. §1101 provides that "[the] Public Printer shall execute such printing and binding for the President as he may order and make requisition for," the executive

branch retains its ability to ensure that materials are printed. A March 11, 1994, memorandum of the Office of Legal Counsel reaffirmed this

A March 11, 1994, memorandum of the Office of Legal Counsel reaffirmed this position. Since there have been no procedural changes or statutory modifications of any substance in this area of the law since that time, GPO's general counsel has requested the DOJ Office of Legal Counsel to reconsider this matter. We have also referred the Justice Department's memorandum to the general counsel of the GAO, which in a September 30, 1994, letter to then-JCP Chairman Ford held that contractors performing printing work directly for Federal agencies outside the authority of Title 44 and section 207 may not be paid from appropriated funds.

If the Justice Department's memorandum were followed, it would have strongly negative consequences for Government printing. Approximately 90 percent of all printing work performed by GPO is for the executive branch. Approximately two-thirds of all publications in the FDLP are executive branch publications, as are about 90 percent of all sales program publications. Assuming that executive branch printing policy would be characterized by decentralization as recommended by the NPR, the removal of executive branch printing from GPO would increase the cost of Government printing significantly. It would also increase the cost and reduce both the comprehensiveness and equity of current publications distribution policies, such as the FDLP, undercutting the congressional appropriations made for that purpose.

In July 1994, when President Clinton signed the requirement into law that the procurement of all printing, including duplicating, must with certain exceptions be performed through GPO, he expressed an intention to work toward Govern-

ment printing reform. Subsequently, congressional leaders and representatives of the Administration worked out an agreement to maintain the status quo under Title 44 for the ensuing year while they worked together to produce a plan for Title 44 reform.

Under this agreement, they stated that agencies would: (1) use procurement as the preferred method of fulfilling printing requirements; (2) conduct all printing procurement through GPO to the extent required by law; (3) continue normal operation of existing agency inplant facilities without expansion; (4) continue to carry out plans downsize inplant capacity; and (5) ensure that all Government publications as defined in Title 44 are made available to the FDLP. The agreement was communicated to the heads of all executive branch departments and agencies in a memorandum dated September 19, 1994, by the Director of OMB, who stated that "agency compliance with these policies, and cooperation with congressional oversight, is essential to the ultimate success of a comprehensive initiative to reform Government printing."

On April 11, 1996, the White House Chief of Staff reiterated this agreement and its specifics in another memorandum to the heads of departments and agencies. This approach provides a far more constructive basis for reforming Title 44, one that emphasizes taxpayer savings and ensures public access, than the approach

taken by the Justice Department.

Electronic Technology

Where electronic information technology is concerned, there is a view among some observers that GPO's activities should be restricted to print formats and that we should have no role in electronic dissemination. However, there are strong reasons for arguing that effective public access to electronic Government information should involve rather than exclude GPO.

GPO in fact already plays a significant and successful role in the electronic dissemination of Government information. For several years we have been a leading Government producer of CD-ROM. In 1992, we received the annual award of the Special Interest Group for CD-ROM Applications and Technology (SIGCAT), the largest CD-ROM user group in the world. In 1993, the GAO cited our CD-ROM program as one of the most cost-effective in the Government, specifically noting that GPO's CD-ROM products are among the least expensive for users. That same year, Congress enacted the GPO Electronic Information Access Enhancement Act (P.L. 103–40). The act mandated GPO to provide online versions of the Congressional Record and Federal Register and authorized the Superintendent of Documents to work with Congress and Federal agencies to put additional information online.

The implementation of P.L. 103-40 has been enormously successful. Since we made the GPO Access service free to all users last December, we have averaged more than 2 million document downloads per month, and the number is growing; in June 1996, it reached 2.5 million. The service, which is now accessible through GPO's home page on the World Wide Web (http://www.access.gpo.gov), currently features 58 databases, including a variety of agency GILS records, and it continues to grow. Some of the databases we prepare for GPO Access are also utilized by the Library of Congress for its THOMAS information service and by House Information Resources.

P.L. 103-40 statutorily recognized an electronic information role for GPO that we had been seeking for some time. The results of its implementation confirm that GPO can participate effectively in the electronic information dissemination arena. We just concluded a major study of how to convert the FDLP to a predominately electronic basis involving a broad range of participants from both the Government and the library and information communities. Among other things, the study found strong support for having a single entity in the Superintendent of Documents to coordinate library-related information dissemination activities in the electronic era.

Electronic Technology in Support of the Printing Process. GPO is often mistakenly characterized as an outmoded printer, when in fact the technologies used in the central office plant are state-of-the-art. GPO pioneered electronic prepress technologies in the Federal Government, and indeed throughout most of the

printing industry, beginning in the 1960's. By the late 1970's, the production of most congressional publications had been converted to electronics, and in the early 1980's GPO concluded its phase-out of hot metal typesetting. Since then, GPO has gone through successive generations of automated composition technologies, each more powerful and less expensive than its predecessor.

Today, GPO's electronic prepress systems are characterized by a complex of direct electronic fiber optic linkages to a variety of congressional offices on Capitol Hill for data interchange. Since 1985, GPO has been connected to Congress with a 24-line fiber optic network. Only 6 of the lines are in use, but GPO deliberately oversized the network to handle Congress's expanding needs for

electronic interchange.

Using this network, GPO currently receives a portion of Senate proceedings for the Congressional Record directly via fiber optic transmission, and we have begun receiving input from the House. Drafts of legislation destined to be introduced are received electronically from the Senate and House Offices of Legislative Counsel; the input is stored at GPO and can be accessed directly back on Capitol Hill for redrafting. A significant number of congressional committees are also linked directly with GPO's prepress systems for the preparation of hearings, committee prints, and other documents.

GPO's electronic systems make it possible to manipulate data and convey it from one publication to another, a capability that saves time, effort, and money. With this capability, bills, reports, and other documents can be conveyed for production in the Congressional Record, as required by congressional rules, without the need to rekey the data. Once inputted, the data from GPO's composition systems can also be converted for production in multiple medias, including print, CD-ROM, and online access.

GPO's electronic data capabilities are unique because of format standardization and the volume of its database storage capacity. Currently, GPO has 21 gigabytes of online storage, most of which is protected by RAID 5 technology, and an additional 120 gigabytes of near-line optical disk storage in the form of an 88-disk juke box. A second juke box ensures data protection. GPO's WAIS databases reside on a computer with 27.5 gigabytes of online storage. All databases are backed up regularly to ensure reliability.

With the increasing productivity of electronic information technologies supporting its printing systems, GPO has made significant strides forward in reducing the costs of congressional printing. In the past two decades, GPO's workforce has declined by more than 50 percent, virtually all of the reduction due to

technology.

At the same time, costs have come down. Discounted for inflation, the cost per page of producing the Congressional Record is today only two thirds of what it was before the Record was converted to electronic prepress production, and we just recently reduced the Congressional Record page rate by 7 percent, primarily due to technology improvements. Similar savings have been achieved on other congressional products. As a result, for the past decade GPO has been able to hold a relatively flat line on appropriations for congressional printing. Continued technology upgrades, in addition to new technology approaches where appropriate, will continue to provide Congress with the best information services possible.

The Senate's print-on-demand capability is a good example of how electronic technologies have been used by GPO to satisfy a customer requirement for localized service. Two years ago, a joint effort of the Secretary of the Senate, the Senate Sergeant at Arms, this Committee, the JCP, and GPO was launched to provide a print-on-demand capability for the Senate Document Room. An electronic printing system was provided by the Senate and linked by fiber optic cables to GPO's automated prepress systems in the central office plant. GPO provides staff to operate the system for the Senate.

The print-on-demand capability now permits copies of bills, resolutions, and other official documents to be communicated electronically directly from databases resident at GPO to the Documents Room, where the exact number of copies needed can be produced on the spot. It also makes possible a reduction in the volume of copies that are originally printed at GPO, reducing printing costs,

and it also reduces the paper storage and inventory requirements for the Documents Room.

Electronic Support for the Procurement Process. Electronic technology is also being used to improve the printing procurement process. Electronic versions of printing procurement bid solicitations are now accessible from the Internet via GPO's World Wide Web home page. We are currently posting solicitations from the central office and from a regional office in Hampton, VA, and we want to expand these postings to all regional offices. We estimate that less than \$1,500 in programming was spent developing the system capability for making these solicitations available on GPO's home page. These costs were absorbed by current staff and no out-of-pocket expenses were incurred.

GPO did not need to undertake a large-scale effort to develop a system for electronically posting copies of bid solicitations. We developed our World Wide Web page originally as part of our mission to electronically disseminate Federal documents mandated by P.L. 103-40. To post bid solicitations, we simply added another electronic link to a printing procurement web page containing a list of currently available bid solicitations. A user need only click on the name of the desired document to initiate a download of the full text of the document. The technical expertise, as well as the computer hardware and software needed to

accomplish this, was already in place.

The electronic posting of bid solicitations benefits the Government in several ways. First, it allows the GPO to reduce the cost of making this information available to the public. The estimated cost of preparing a typical multipaged bid solicitation for the web page is less than \$1.00 per document. This cost is expected to drop further, because once a GPO term contract or other solicitation has been tagged it will not need to be tagged again when it is renewed. Approximately 90 percent of all term contracts are renewed. Making paper copies of solicitations available in response to walk-in and telephone requests is more expensive, ranging from \$1.13 to \$4.66.

Posting bid solicitations electronically also has the benefit of enabling more contractors to bid on Government printing jobs, thereby increasing competition and lowering procurement costs. Printed versions of bid solicitations are available to potential contractors and the public free of charge at any GPO bid room. However, only a limited number of copies are printed and, as a practical matter, access is limited to those printers located near GPO facilities. Other potential bidders therefore cannot gain ready access to bid opportunities except through reliance on proprietary bid services. Thus, for the vast majority of GPO contractors, most of whom are small businesses, the opportunities to review GPO bid solicitations are limited.

By posting electronic versions of these documents on the Internet, all potential bidders, even remotely located small businesses, will have immediate access to additional bid opportunities. We have found that increasing the dissemination of formal bid solicitations results in more contractors submitting bids. The increase in competition also results in a decrease in contract prices, lowering the overall cost to the Government for printing.

GPO's electronic posting initiative has generated considerable interest and enthusiasm in the printing industry. It has been praised by the Printing Industries of America, Inc., and by the GPO Contractors Coalition. In addition to the trade groups, individual printers have contacted GPO, both in writing and electroni-

cally, to voice their support for the program.

It is clear that the Federal Government will begin to rely more heavily on electronic commerce to meet its procurement needs. In October 1993, Executive Order No. 12,864 directed the Federal Government to explore and use electronic commerce in Federal procurement. This was followed by the Federal Acquisition Streamlining Act of 1994 (P.L. 103–355), which mandated, among other things, that the Federal Government begin using a computer network to disseminate solicitations in order to make Federal procurement more flexible, responsive, and timely. GPO's electronic posting of procurement solicitations is one way that we are using electronic commerce measures, consistent with the intent of both Administration and congressional efforts to streamline the Federal procurement process.

We are also using electronic funds transfer to pay those contractors who can receive payments electronically, and we are currently developing a pilot project with the Defense Printing Service to accept print orders filed electronically. In the future, we envision posting small purchases on the Internet and receiving price quotations electronically.

These and related developments can only be accomplished through office automation improvements in GPO's Printing Procurement Department. We currently have a request before the JCP to equip our procurement offices with computers, servers, and software. This equipment would end the Department's reliance on an obsolete mainframe-based system, reduce computer and telecommunications costs, and improve communications Department-wide and with customer agencies and contractors. The capabilities of this system could be used to implement additional electronic commerce initiatives that will increase competition, improve service, and lower the costs of the Printing Procurement Program.

OMB Draft Legislation. Recently, the Director of OMB transmitted to several Members of Congress proposed legislation titled "The Electronic Depository Library Act of 1996." We were provided with a copy of the proposal and analyzed its provisions. Copies of our analysis were transmitted to the Chairman and ranking Member of this Committee as well as other Members of Congress.

Several key provisions of OMB's proposal contrast sharply with the legislative direction suggested in the recently concluded study on the electronic transition of the FDLP. Although the current FDLP includes information from all three branches of Government, the OMB proposal would apply to the executive branch only.

In addition, the OMB proposal would potentially circumscribe the type of information that would be made available to depository libraries. It would transfer policy oversight for electronic dissemination to depositories from the Superintendent of Documents to agency Chief Information Officers (CIO's), who are accountable by law to OMB. It would allow agencies to make individual arrangements with depository libraries to pay for fee-based information services operated by agencies, and would set no limit on the fees, signaling a dramatic departure from the traditional principle of making Government information available to depositories without charge. It would effectively transform the National Technical Information Service (NTIS) of the Department of Commerce which has no depository distribution authority and which could provide no guarantee of assuring equitable public access to any information it disseminates to depositories—into the executive branch's depository of final resort. It would also establish NTIS as the centralized point of access for executive branch information, in contrast to OMB's objection to the "centralized management model" currently operational in the FDLP. While the OMB proposal is purportedly designed to improve depository access to electronic information, the enforcement mechanism it provides would be weak and ineffectual.

The most prominent shortcoming of OMB's proposal lies in the provisions regarding the dissemination of online services. Agency CIO's would make direct, individual arrangements with depository libraries for access to online services "in some suitable electronic format." Online services would be required to be listed in each agency's information locator service so that libraries could find them.

This part of the bill seriously miscalculates the value and utility to the library community of having a single entity in the Superintendent of Documents to coordinate library-related information dissemination activities. Currently, GPO deals with hundreds of departments, agencies, bureaus, and offices, represented by approximately 4,500 billing address codes. To deal with a potentially vast number of online publishing entities in an increasingly distributed electronic environment, each of approximately 1,400 depository libraries would assume an enormous administrative burden without the presence of a central entity to coordinate services, provide notice of information availability, promote standards, develop guidelines on timeliness, and suggest user-friendly interfaces.

Providing equitable dissemination to all libraries, regardless of differing equipment capabilities in the library community, would be equally burdensome to

agencies. The GPO Electronic Information Access Enhancement Act of 1993 was enacted in part to relieve agencies of this burden by establishing a single online service that would standardize service provision to all depository libraries. Since it is unlikely that many agencies would want or be able to provide differing levels of services, the result would be that only those libraries with the most comprehensive electronic capabilities would be able to access most Federal online systems.

To support its legislative proposal OMB stated their opinion that "the centralized management model of chapter 19 [of Title 44, U.S.C.] is not appropriate for distributed electronic information products and services." However, this is not the conclusion that was reached by the broad spectrum of participants in the FDLP study. The study confirmed the value of a central entity to assist libraries and the public in accessing electronic Government information in a distributed environment. Statutory improvements identified by the study could be attained through legislative revisions that would be less sweeping than those proposed by OMB, less burdensome on agencies, depository libraries, information users, and the taxpayers, and less damaging to the comprehensive and equitable system of access to Government information provided through the depository library program today.

Proposals for Change to Title 44

Need for Updating. I think the basic structure of Title 44 is sound, but I agree that certain parts of the statutes need updating. For example, it no longer seems necessary in the Information Age to require the Public Printer to be "a practical printer, versed in the art of bookbinding," and references to technology such as stereotype plates have long since grown antiquated. Many observers have suggested changing the name of the Government Printing Office to something more descriptive of GPO's modern information reproduction and dissemination functions. Those provisions and others like them clearly need to be updated.

Also in need of change are provisions that would improve our capability to manage our sales program effectively. For example, we are not permitted to offer volume discounts of more than 25 percent, although the industry standard is 40 percent. Greater flexibility in managing this program could reduce costs and prices and improve dissemination to the public. However, we do not seek authority to "publish" Government information, as some observers have suggested.

Reform of Funding Mechanism. Another possible change is reform of GPO's funding mechanism. Outside of the small annual appropriation we receive for the Superintendent of Document's depository library, cataloging and indexing, bylaw distribution, and international exchange programs, we are required by section 309 to recover all of our costs from the prices we set for our work, including costs for a number of functions that do not contribute to production and distribution but which every Federal agency is required to perform. Our printing rates must recover costs for our Inspector General's office, budgeting and accounting, personnel, equal employment opportunity, health and safety, security, data systems, and so on. Recovering these expenses increases the prices of GPO's products and services. Most agencies receive an annual salaries and expenses appropriation to cover these costs. With an appropriation to GPO for general administrative expenses, the costs charged to Congress and agencies for printing and related products would decrease.

Changes to Facilitate FDLP Transition. The recent study on the transition to a more electronic FDLP contained several suggestions for change to chapter 19 of Title 44 to facilitate that transition. The suggestions, which are currently under review by the library community, would provide explicit statutory recognition of

GPO's FDLP role and responsibilities in the Information Age.

Transfer of JCP Authorities. Transferring certain JCP authorities to the Public Printer would address constitutional concerns about the role of the JCP. However, I also recognize that the JCP performs a valuable function for GPO as a referee over the printing priorities of the two Houses of Congress, and in providing policy oversight for printing and information dissemination issues, and I would not recommend its abolition altogether.

Oversight of Agency Inplant Capabilities. Congress needs to review the operation of printing plants in Federal agencies. While some of the work done in these plants is justified (e.g., work for the Central Intelligence Agency, Defense Intelligence Agency, and the National Security Agency, and short run work for limited internal administrative purposes only, which was the reason the plants were originally established), much of it could be procured far less expensively. Over the past 15 years, there have been a number of studies that compared the cost of performing procurable printing in agency plants with the cost of purchasing it through GPO. Most have concluded that it is far less expensive to procure through GPO. Also, printing procured through GPO is automatically eligible for dissemination to the public through the FDLP and sales programs. A review of agency plants that results in ensuring that they are limited to the performance of internal administrative printing that is outside the requirements for public distribution contained in the FDLP provisions of Title 44 would reduce the cost of Federal printing and improve public access to Government information through established dissemination programs.

Congressional Review of Other Authorities. As part of the effort to change Title 44, Congress needs to examine the authorities of other agencies to perform printing and dissemination functions that are being used to conflict with those

that GPO is required to perform.

During the conduct of the recent study concerning the electronic transition of the FDLP, the Congressional Research Study compiled the various statutes authorizing the dissemination of Government information to the public. Approximately 400 statutes were identified, although only a handful are of real significance to GPO in terms of conflicting authorities. Most appear to be requirements to produce and/or disseminate information related to specific program authorities, a feature of law that became common in the 1960's and 1970's with the unwritten assumption that statutory information functions would be carried out in accordance with Title 44. The statutes that are being used to conflict with GPO's responsibilities are those governing the operations of the National Technical Information Service (NTIS) of the Department of Commerce, those that authorize the Federal prisons to perform Government printing (Federal Prison Industries, or UNICOR), and laws that authorize printing for other Federal agencies by the General Services Administration (GSA).

In each of these cases, statutes were originally enacted for sound but limited public policy purposes—to provide for the dissemination of scientific and technical information resulting from Federal research to American business (NTIS), the use of Federal prisoners to perform labor-intensive work to keep them occupied (UNICOR), and the performance of administrative printing as a centrally-located service for Federal agencies physically located together in the field (GSA). However, in recent years operations conducted under these authorities have been expanded beyond their original intent to conflict directly with GPO's

statutory mission.

NTIS is using its authority to establish printing and dissemination arrangements for a wide range of information products, resulting in copyright or copyright-like restrictions on the information that was originally generated at taxpayer expense. UNICOR has invested in long-run printing equipment as a revenue-generating measure, equipment that paradoxically leads to idle rather than busy prison labor. GSA has established cross-servicing arrangements for its printing and duplicating plants to assist agencies in some cases with a wide variety of printing, expanding beyond its original central administrative service unit (CASU) authority.

These operations remove work from the GPO procurement stream and frequently result in decreased public access when the publications are not made available to the Superintendent of Documents for dissemination. Congress needs to review the operation of these authorities to ensure that they are staying within the original legislative intent. That would be a major contribution to reform of

the printing statutes.

Financial Condition. Apart from the potential revision of GPO's funding mechanism, a major revision of the law is not necessary to address the financial situation at GPO. As you know, GPO has experienced a series of year-end finan-

cial losses since 1991, due principally to declining revenues. The losses were funded out of retained earnings in GPO's revolving fund and did not require additional funding from Congress. Revenue declines have been the result of less work coming in, due primarily to budget cuts in the agencies but also to the increasing use of electronics and the production of work by agency plants. They were also the result of a printing rate structure at GPO that remained unchanged from January 1990 until just recently, when we worked with the JCP to establish a pricing structure that fully recovers costs.

In response to this situation, GPO has moved to reduce expenses. Since I took office in 1993, we have reduced personnel levels by more than 1,000, generating an estimated savings of \$50 million, and total employment at GPO is now lower than at any time in the post World War II period. In fiscal 1995, we reduced the loss by year end to \$3 million on \$852.6 million in revenues, for a margin of less than one-half of one percent. However, due to continuing decreases in workload, resulting in part from two Government shutdowns and several snow days, com-

bined losses were \$17 million through May 1996.

We will continue to downsize and adjust operations to meet workload levels. The House of Representatives has directed us to reduce to 3,600 full-time equivalent (FTE) work years by the end of fiscal year 1997, and we will achieve that goal. Other cost-saving and downsizing actions can also be taken within the context of current law. Apart from a revision that would permit us to fund general administrative expenses from appropriated funds, Title 44 provides GPO with sufficient financial tools to meet the current situation.

Beyond these measures, I think Title 44 is a good set of laws for ensuring economy in printing and for providing comprehensive and equitable public access to Government information. With some changes, it would be broad enough and flexible enough to accommodate the transition to new information technologies, and it currently is sufficient to permit adjustment to reduced printing workloads. Focussed adjustments to Title 44, in combination with congressional review of other authorities and continued downsizing and technological transition at GPO, would provide a realistic and achievable program for improving operations without endangering the ability to generate economies in Government printing and ensure public access.

The CHAIRMAN. Well, I will come back to you momentarily, but I have to tell you if you are doing only 50 percent of it in GPO, I am not sure that a solution would be to double the size of GPO; something else is probably going to come out of this. What worries me the most is that the taxpayers are paying their money, are entitled to have available this information, and are not getting it because—am I not correct—the "fugitive" system sort of end-runs it, and unless they go and buy it in some private sector outlet, they will not find it; isn't that about right?

Mr. DIMARIO. That is absolutely correct. The current system

Mr. DIMARIO. That is absolutely correct. The current system requires that if the agency produces a publication on waiver or through their own authority, that they supply at their cost adequate copies to meet the depository system requirements. It is when they fail to do that that "fugitive" documents are created, and it is the current system of electronics that is enabling the agencies to create more and more publications at diverse locations, and we see the "fugitive" problem just growing by leaps and bounds unless something is done.

The CHAIRMAN. And that seems to me to be an enforcement within the executive branch of making available to the depositories that information. Where do you think that

enforcement mechanism rests—if it in fact exists at all?

Mr. DIMARIO. Well, the enforcement mechanism in the law is in the provision of Title 44, but there are no teeth in it. It requires

agencies to do things, but there are no teeth.

I believe OMB itself ought to be responsible for causing an enforcement of the policy. The Administration ought to say this is the law as it exists today, and agency heads are responsible for being responsive to the requirements of the law. Their failure to do so ought to be handled by the Administration and should not be passed off to the legislature to police in oversight hearings, and that is the result of the current system.

The CHAIRMAN. I wonder if, in the course of our confirmation procedures of the several agency and department heads—I say "several," but I mean "all," subject to Presidential con-

firmation—if we should put this in as a requirement.

Mr. DIMARIO. Not a bad idea.

The CHAIRMAN. Well, we have got to get hold of something. Now, you have given a quantifying number of maybe 50 percent of this material being diverted in one way or another—I am not out here to be a prosecutor—in one way or another from the public depositories

Mr. DÎMARIO. I cannot say that they are all being diverted because there is a requirement that they supply us in the law, and some agencies do actually follow the law. But the number that do not comply with the law is very, very substantial. Whether it is 50 percent or not, with respect to being "fugitive"

documents—

The CHAIRMAN. Well, the number I am searching for is the number of quantum of documents or information that is not finding its way into the public depositories. I am not here at this point, as I said, to police the situation, but can you give us any idea?

Mr. DIMARIO. It is almost impossible to give you that because we rely on librarians themselves, when they find out about documents, or people in agencies will sometimes tell us a document has been produced—

The CHAIRMAN. Well, you would say it is very substantial,

then?

Mr. DIMARIO. Yes, sir. I just cannot put a number on it. Wayne Kelley, perhaps could, the Superintendent of Documents; he is in attendance in the audience, so we certainly could get that answer from him. But I am not prepared to put a number on the table without having some basis for it.

The CHAIRMAN. Mr. Francis, do you have any estimate?

Mr. Francis. Senator, I would have to defer to Mr. DiMario on that because it is very difficult to answer that question because basically, they are "fugitive." I know I come across them in my dealings with my people across the country, and at the point that I find them, I question why this was not done through the GPO or submitted into the depository library. It is very

difficult. If we knew they were out there, we certainly could do something about it.

The CHAIRMAN. Mr. DiMario?

Mr. DIMARIO. Dr. Johnson indicated in his testimony that his publications were to be available at some future time if he could work out an arrangement with the Superintendent of Documents. All of those publications, if they are produced by the Government, and if the information is gathered by the Government, are publications that would be required under Title 44 to be in the system, so those are "fugitive" documents. I do not know how many more are out there.

Now, under his definition of "technical information" they have actually gone out and gathered any kind of publication that is in the Government. They say those are technical reports, and they have encouraged other Government agencies to come to them.

The CHAIRMAN. We are going to solve it somehow, and I will instruct committee staff to keep the record open, probably right on up to a period in October when the Congress goes into recess. I want to make sure that this committee does everything we can to gather the facts. It is not likely—it simply will not take place that this Congress is going to legislative a final answer. I have an interim answer in my thinking process at the moment. Everyone around town goes to commissions occasionally. Maybe we could establish a bipartisan commission to begin to study the enormity of this problem and come up with some solutions. I will explore that with my colleagues.

Mr. DiMario?

Mr. DIMARIO. I would just like as a final note to indicate that the Government Printing Office is very willing to work with the executive branch, and we have reached out to the White House and OMB in an attempt to work on the issue, and in fact, it was our suggestion that the National Commission on Libraries and Information Services folks get involved with respect to a study, and I personally spoke to Mrs. Simon, the chair, about that issue.

The CHAIRMAN. I do not question that you are holding

yourself available.

Anything further, Mr. Francis? There seems to be a vote on, and I am going to have to disappear.

Mr. FRANCIS. No, sir. I thank you for your time and listening

to me, though.

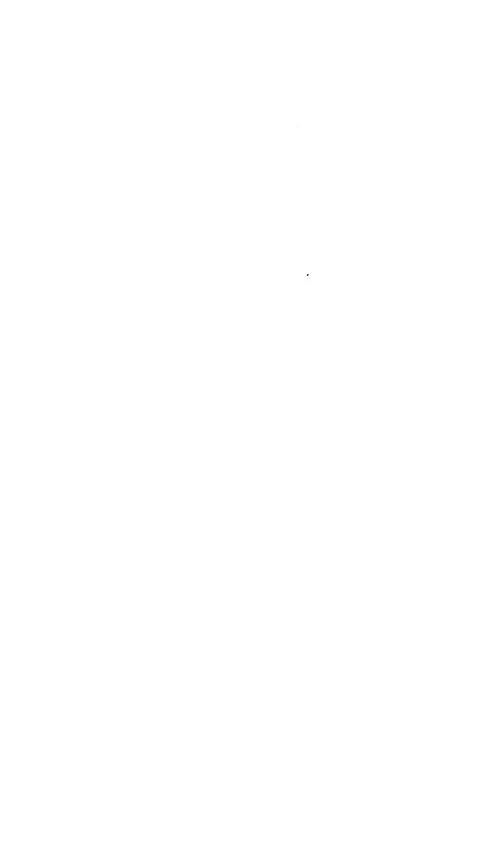
The CHAIRMAN. Well, I am delighted. It is an interesting problem, but it is one begging of solution, because information is vital, and the people are paying for it.

Mr. FRANCIS. Yes, sir.

The CHAIRMAN. Thank you both.

The hearing is adjourned.

[Whereupon, at 11:22 a.m., the committee was adjourned.]





JOHN WARNER, VIRGINIA, CHAIRMAN

MARK O. HATFELD, OREGON
JESSE HELMS, NORTH CAROLINA.
ROBERT DOLE, KANSAS
TEO STEVENS, ALASKA
MITCH MCCONNELL, KENTUCKY
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ENNIE L. GILL, DEMOCRATIC STAFF DIRECTOR AND CHEF COUNSEL

APPENDIX A1

United States Senate

COMMITTEE ON RULES AND ADMINISTRATION WASHINGTON, DC 20510-6325 April 26, 1996

Dear Library Director:

The Senate Committee on Rules and Administration, which has legislative jurisdiction over Title 44 of the U.S. Code and the Government Printing Office (GPO), will hold a hearing on matters including the Federal Depository Library Program (FDLP) on May 22, 1996. This is the first in a series of hearings in which the Committee will review Title 44.

I understand that all Depository library Document Coordinators have been provided a draft of the Congressionally-directed GPO Study on a Successful Transition to a More Electronic Federal Depository Library Program.

I would appreciate your comments and recommendations on this draft Study, and on any other aspects of the FDLP. Your comments would be particularly helpful before the May 22nd hearing, or as soon as possible thereafter.

Specifically, I would appreciate your insights on 1) the capability of your library and your library's users to become more electronic in the time frames contemplated for this transition; 2) access to public information from feder. I executive and judicial branches of government; 3) what is working well with the overall FDLP; what needs to be changed in order for your library's federal depository program to work better; and 4) estimated average number of users of federal information through the FDLP on an annual basis at your library at present.

If you have any questions regarding the hearing, please contact Joy Wilson at (202) 224-3213 (fax: (202) 224-7001).

With kind regards, I am

Chairman

CHIEF JUSTICE HARRY L CARRICO

JUSTICES

A CHRISTIAN COMPTON

ROSCOE B STEPHENSON JR

CLUZABETH B LACY

LEROY ROUNTREE MASSELL SR

BARBARA MILANO KEEN

LAWBENCE L ROONTZ JR

SENIOR JUSTICES

RICHARD N POFF

HEMRY N WHITING

SUPREME COURT OF VIRGINIA
SUPREME COURT BUILDING

SUPREME COURT BUILDING
RICHMOND, VIRGINIA 23219
804-786-2251

May 16, 1996

CLERK
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ROBERT N BALDWIN
CHIEF STAFF ATTORNEY
JOHN THOMAS BRUCE
REPORTER OF DECISIONS
KEHT SINCLAR

The Honorable John W. Warner The United States Senate 225 Russell Senate Office Building Washington, D.C. 20510

Dear Senator Warner:

Thank you for your letter of April 26, 1996 addressed to our State Law Librarian, Ms. Gail Warren, concerning the forthcoming hearing on matters dealing with Title 44 of the U.S. Code and the Federal Depository Library Program (FDLP). Attached is our librarian's detailed response to the several questions posed in your letter.

I write to underscore the Court's concern over any changes in the statutes or regulations relating to the FDLP that would require the Court to open the State Law Library to use by members of the general public. Ms. Warren's response details the categories of persons presently authorized to use the library. I enclose a copy of Virginia Code § 42.1-60 through -64, which govern the Library. As you will note, no statutory provision permits the general public access to the library.

The Court's concern over limiting access to the Library is based mainly on the necessity of maintaining strict security for the safety of the occupants of the Supreme Court Building, which, as you know, houses both the Court and the Library. Currently, we are in the midst of enhancing the security in the building, using funds appropriated by the last session of the General Assembly. This project will be frustrated unless we can continue to restrict access to the Library.

If we can furnish you or your staff with further information on this subject, please advise Ms. Warren or me.

· Come

Sincerely yours,

Harry L. Carrico Chief Justice

HLC/cl Enclosures Response of Librarian, Virginia State Law Library, to Senator Warner's letter of April 26, 1996

 The capability of our library and the library's users to become more electronic in the time frames contemplated for the transition

The GPO Plan projects a 2½ year schedule for conversion to a substantially electronic FDLP; the Task Force proposes a five to seven year transition to cover FY 1996 through FY 2001.

At present, this library has one public workstation available for access to federal CD-ROM received through the FDLP, in addition to all commercially produced CD-ROM acquired by the law library. This workstation also serves the library, spart-time employees word processing needs and is not connected to a modem. Online access to federal material through GPO Access and the Internet is provided by the workstation on the Documents Librarian's desk.

The Strategic Plan suggests all depository libraries will have to provide at least one public access workstation with a graphical user interface, CD-ROM capabilities, liternet connections and the ability to access, download, and print extensive products. These requirements would necessitate the purchase of additional computer workstations (including printers) dedicated for "public access", the installation of additional phone lines and the acquisition of additional Internet provider accounts. The library budget would not cover the acquisition of these items without reducing spending in another budget area (new acquisitions, continuations, etc.) or an additional appropriation.

Beyond the initial purchase of this equipment, these requirements also imply a greater need for ongoing computer technical assistance from the court's administrative office Management Information Systems Department. Additional training for library staff and patrons would be mandatory for a successful transition to this electronic environment. With a full-time library staff of three (including the director) additional training would require shifting of responsibilities and possibly, additional work hours for employees.

Many patrons remain uncomfortable with computer assisted legal research and, despite the graphical interfaces, searching for information on the Internet.

 Access to public information from federal executive and judicial branches of government

This library is not open to the general public, but qualifies as a selective depository library via 44 U.S.C. §1915. As a selective depository, we receive approximately 5% of the items offered through the FDLP, primarily executive agency materials and decisions of various U.S. courts, including the U.S. Supreme Court. Historically, federal circuit and district court opinions have not been available through the FDLP and we have relied on commercial publishers for online access and the case reporters. In the library, Internet access to federal opinions is becoming a more viable means of acquiring federal case law at a reasonable cost. As a law library serving the state's judiciary, the administrative office of the Virginia court system, the practicing bar and officials of state government, our interest in continuing access to federal executive and judicial information through the federal depository library program is clear. Indirectly, we expand this access beyond our primary user groups to others who need quick, efficient access to federal information, such as the Virginia Sentencing Commission, the Commission on Youth & Family Violence, the Virginia State Police and inmates housed in Virginia's correctional institutions.

3) What is working well with the overall FDLP; what needs to be changed in order for your library's federal depository program to work better

Since receiving FDL status in February of 1973, this library has received thousands of books, journals, and pamphlets, and, more recently, several CD-ROM titles. A selected inventory of FDLP materials reveals a collection worth over \$102,500.00. Items such as the U.S. Reports, the Federal Register, the CFR and the Congressional Record are used every day by library patrons. Of the 583 written and telephone requests for information received by library staff from May 1, 1995 through April 30, 1996, approximately 60 were requests for information from government documents. These materials were photocopied and mailed to the requestor within a day or two of the request. (This figure does not include the number of patrons who visit the library and use the documents collection.)

In recent years the FDLP has improved the distribution of documents; items such as microfiche and slip opinions of the U.S. Supreme Court arrive in a more timely fashion. Library staff also have improved access to this information by reducing the time required to process documents and place them on the shelves for use. Since 1993, all government materials have been included in the library's online catalog, increasing user searching capability for government information. Library staff actively promote the depository collection through a pamphlet featuring depository items in the library, an in-house quarterly newsletter, *GovDoc News*, and participation in the Central Virginia Federal Depository Libraries Consortium.

The language appearing on page 3 of Attachment D-5 to the *Report* is of concern to the library as it affects our continued participation in the FDLP. As mentioned above, the provision of "public access" is not currently a requirement; if section 1915 changes, our status undoubtably would change as well. A primary concern is our continued ability to provide a secure environment for research. The Supreme Court of Virginia is implementing additional security measures in the Supreme Court Building at great expense. A requirement to open the doors of the building to the public would render such security measures inadequate and ineffective. Although the public do not have direct access, we are serving the public through the provision of government information to courts and staff comprising Virginia's judicial system, the Office of the Attorney General, offices of Commonwealth Attorney's and Public Defenders throughout Virginia, and the inmate population in Virginia's correctional institutions.

Because ours is a selective depository collection, we regularly provide referrals to larger depository libraries, such as the regional depository in Charlottesville and the patent depository at Virginia Commonwealth University, for materials not a part of our collection. While we appreciate the need for change in the direction of the FDLP, the program as it exists today works well for our patrons.

4) Estimated average number of users of federal information through the FDLP on an annual basis at your library at present

From May 1, 1995 through April 30, 1996, the staff of the Virginia State Law Library served 6,360 patrons visiting the library; of this number, approximately 40%, or 2,544 individuals, used FDLP materials during their visit.

3 -1-60

LIBRARIES

§ 42 1-64

CHAPTER 4.

LAW LIBRARIES

- § 42.1-60. State Law Library managed by Supreme Court. There shall be a State Law Library at Richmond, with a branch thereof at Staunton, maintained as at present, which shall be managed by the Supreme Court. The Court shall appoint the librarian and other employees to hold office during the pleasure of the Court; provided, however, that the clerk at Staunton shall act as law librarian there without additional compensation therefor. (Code 1950, § 42-13; 1970, c. 606; 1977, c. 397.)
- § 42.1-61. Books constituting Library. The State Law Library shall consist of the books now in the law libraries at Richmond and Staunton, with such additions as may be made thereto. (Code 1950, § 42-14; 1970, c. 606.)
- § 42.1-62. Additions to Library. The Supreme Court shall, from time to time, make additions to the State Law Library by purchases, and may lease or purchase computer terminals for the purpose of retrieving available legal reference data, with funds at its disposal for these purposes, and may cause books to be transferred from one law library to another. All law books acquired by the Commonwealth by gift, or by exchange, from the United States, or other states and countries, shall be placed in the Library. The Director of the Department of Purchases and Supply shall have placed in the State Law Library at Richmond, and in the branch thereof at Staunton, a copy of every law book required by §§ 17-111.6 and 30-34.5. (Code 1950, § 42-15; 1970, c. 606; 1977, c. 397.)
- § 42.1-63. Regulation of Library; computer expenses. The Supreme Court shall have the power to make and enforce such rules and orders for the regulation of the State Law Library, and the use thereof, as may to it seem proper. Such rules and orders may provide for the assessment and collection of fees for the use of computer research services other than for valid state uses, which shall include official use by attorneys for the Commonwealth and public defenders, and their assistants. Such fees shall be assessed in the amount necessary to cover the expenses of such services and those collected and hereby appropriated to the Court to be paid as part of the cost of maintaining such computer research capabilities. (Code 1950, § 42-16; 1970, c. 606; 1977, c. 397; 1989, c. 704.)
- § 42.1-64. Who may use Library. The Governor and other state officers at the seat of government, the Reporter of the Supreme Court, members of the General Assembly, judges of courts, and practicing attorneys in good standing, and such other persons as the Supreme Court shall designate, shall have the



COMMONWEALTH of VIRGINIA

THE LIBRARY of VIRGINIA

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Nolan T. Yelich STATE LIBRARIAN

May 9, 1996

Honorable John Warner, Chairman Committee on Rules and Administration United States Senate Washington, DC 20510-0625

Dear Senator Warner:

In response to your letter dated April 26, 1996 concerning the revision of Title 44 of the U. S. Code and particularly how that revision will effect the Federal Depository Library Program (FDLP), I wish to make the following comments:

- * As Documents Coordinator for the Library of Virginia I support the Five Principles for Federal Government Information as described in the Draft Study to Identify Measures Necessary for a Successful Transition to a More Electronic Federal Depository Library Program.
- * I endorse Goal 1 of the FDLP Strategic Plan: "Ensure that the public has equitable, no-fee, local public access to Government information through a centrally managed, statutory authorized network of geographically-dispersed depository libraries."
- * My library currently has the appropriate equipment and in sufficient quantities to serve the needs of our patrons using government information during the transition period. A 5-7 year transition period as described in the Draft Report would better serve our patrons and our planning considerations.
- * One of The Library of Virginia's strongest assets is its historical collection of Federal Documents; as Documents Coordinator, I am greatly concerned about the long term availability and timely access to electronic documents.
- * I encourage the Federal Depository Library Program, to develop a means through which United States government agencies notify the public of their publications. The FDLP should continue serving depositories through the provision of catalog records and through the development of locator services for individual electronic materials.

(804) 786-2332

(V/TDD) (804) 786-3618

(FAX) (804) 786-5855

- I am concerned about authenticity of electronic documents and their acceptance by the public and the courts.
- * I believe that certain materials, such as legislative hearings, will never be useful in electronic format and provision should be made to evaluate items based on suitability to the electronic environment.
- * I am concerned about shifting costs of the program to the depositories, including equipment, maintenance, and additional staff time and training required to effectively serve our patrons from the state government and 3rd Congressional District in a more electronic environment.

The Library of Virginia is a public research library which serves as the library at the seat of government for the Commonwealth of Virginia as well as the archival agency for the Commonwealth. Our collection of federal documents pre-dates the 1895 law establishing the Depository Program and includes the earliest of Congressional materials: the American State Papers and a complete collection of the Serial Set. Our federal documents collection is the most heavily used part of the library's holdings, after genealogy and Virginia history, with approximately 20,000 users per year. The collection comprises nearly half of our entire print/microfiche collection. This unique historical collection, available to anyone who wishes to use it, could effectively stop with the transition to a more electronic environment.

As an institution, The Library of Virginia is relatively well prepared to move to a more electronic environment within the time frames suggested by the Draft Report, especially as it concerns free access by the public to electronic federal documents. A new Library of Virginia facility, currently under construction, will be fully "wired" and offer public access, through the Government Documents Room, to electronic federal documents on the Internet, on disc and on CD-ROM. Library staff currently possesses skills to navigate the Internet, and to provide minimal assistance with CD-ROM products. I am concerned electronic materials will become so sophisticated through electronic transmission, that our ability to help our patrons will be lost. We all know how to read books; not all of us can run complicated statistical packages to generate economic tables.

Currently, many of our users of electronic government information are highly trained state government personnel. I continue to be concerned that though the goal of widely distributed government information will make access for some individual users easier, libraries must continue to play an important role in making government information available. If we must accept a more electronic environment, I believe a 5-7 year transition period as suggested in the Draft Report is realistic and that important information could be lost to the public if arbitrary time tables are set.

One of the things that GPO and the FDLP has done well for the majority of depositories has been the acquisition of materials and arrangement and description of depository items in the Monthly Catalog. Since The Library of Virginia began loading electronic tapes of these records into our online library catalog in 1990, the use of federal information in our library has continued to increase. It is very important to our users that Internet accessible information be cataloged in a similar fashion as print and tangible electronic information, allowing them to locate government

information in our collection transparently, regardless of tangible location.

I am concerned that the proposal for a joint venture with the National Archives and Records Administration for preservation of electronic documents will reduce availability and in some cases the usefulness of the preserved documents.

In conclusion, I would encourage the Committee to look favorably on the Draft Study to Identify Measures Necessary for a Successful Transition to a More Electronic Federal Depository Library Program. I urge the committee to continue to support a statutory program for the distribution of government information in both print and electronic format. I hope the committee will continue to see the Depository Program and the role of the Superintendent of Documents as viable institutions in the electronic environment.

If there is any way I can be of further assistance, please let me know.

Sincerely,

Mary Sine Clark
Mary Sine Clark

Documents Coordinator The Library of Virginia 11th St. @ Capitol Square Richmond, VA 23219

(804)786-2175

LIBRARY OF THE UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

96 MAY 23 AM 4: 13

PETER A. FREY CIRCUIT LIBRARIAN TENTH AND MAIN STREETS RICHMOND, VIRGINIA 23219 804-771-2219 FAX 804-771-8364

May 16, 1996

Hon. John Warner United States Senator Chairman, Committee on Ruels and Administration United States Senate Washington, DC 20510-632

RE: TITLE 44 AND FEDERAL DEPOSITORY LIBRARY PROGRAM(FDLP)

Dear Senator:

Thank you for your letter of April 26 regarding the Federal Depository Library Program. We appreciate the opportunity to respond.

The Library for the U.S. Court of Appeals for the Fourth Circuit in Richmond, Virginia has been a depository library since 1973. We are one of the smallest and most highy selective of the approximatelly 1,400 depository libraries. We currently select only 280 items, or less than 4%, of the 7532 items available. We concentrate on selecting those documents, specifically legislative materials and agency reports, which our Court requires for its work. Although our documents collection is open to the general public in accordance with the provisions of Title 44 of the U.S. Code, we are primarily a judges' library serving as the central research facility for all judicial officers within the five states of the Fourth Circuit. The documents staff is one person who manages this operation in addition to a wide range of other library responsibilities. We estimate there are 500 users of federal information through FDLP on an annual basis at the Fourth Circuit Library.

By October 1, 1996 every depository library will be required to have purchased and installed one or more highly sophisticated and expensive work stations with Internet access to enable the general public to access, through FDLP, electronically disseminated Government information. This requirement to purchase and to install expensive and sophisticated work stations for general public access inflicts on the Federal Court of Appeals Libraries additional costs. This additional financial burden comes at a time when the Federal Judiciary is being required to cut back its expenditures to conform to the Congressional mandate to reduce the Federal Budget.

- We feel that the Library program of the Federal Judiciary should be granted relief from this additional unfunded requirement. We, therefore, recommend that Title 44 be amended so that the Federal Court of Appeals Libraries (Circuit Libraries) be granted the same status that the highest state appellate court libraries enjoy as set forth in Title 44, section 1915. The highest state appellate courts are exempt from the provisions of section 1911 requiring free use and access of depository collections by the general public. By granting the U.S. Courts Libraries this exemption, we will not incur the additional financial burden imposed by the GPO/SUDOCS requirement that we purchase and install expensive electronic workstations with Internet access for general public use by October 1, 1996. We recommend that the United States Court of Appeals Libraries be exempt from the general public access requirement for the following reasons.
- 1) SECURITY. The FDLP requirement mandating that the general public have access to Government information in all Federal Depository Libraries, including the U.S. Courts Libraries, exposes the Federal Judicial Officers and Courthouses to increased risks of harm and violence. To adequately protect the Judges and Courts, Court Security will have to be increased at additional expense. Court Libraries, which are also Federal Depository Libraries, located in major metroplolitan centers with burgeoning dockets and ever increasing case filings will be particularly at risk without enhanced security systems to protect Judges, and Court personnel, as well as their confidential computer files. The public access requirement imposes on all U.S. Courts Libraries additional needless security risks for the Judges and Court personnel. The very limited number of Government documents in U.S. Courts libraries can be obtained from other depository libraries easily accessible to the general public and which are in fact designed to accommodate the general public and its need for and access to Government information.
- 2) COST. The Federal Judiciary is required to reduce expenditures to conform to the Congressional mandate reducing the Federal Budget. The requirement, going into effect October 1,1996, which requires all Federal Depository Libraries, including U.S. Courts Libraries, to purchase and to install sophisticated automated multimedia work stations to facilitate the general publics access to electronically disseminated Government information, puts an increased burden on the limited financial resources of the U.S. Court of Appeals Library program at a time Congress mandates a reduction in Federal Judiciary expenditures. This requirement will also force the Court Libraries to divert resources to train library staff to work with the new equipment to enable the library to discharge its duty to help the general public access government information electronically. This diversion of financial resources interferes with the U.S. Court of Appeals Library program to meet it's statutory obligation of providing information and library service to the Federal Courts and Judicial Officers within each Circuit. Additional staff time would be required to assist the general public each time they wished to access this electronic information.

The initial outlay to purchase and install the automated work stations is not the only cost which the U.S. Courts will have to absorb in meeting the new requirements. There will be rising costs for paper for pc printers, toner for pc printers and other supplies associated with the workstations. There will be additional maintenance costs to keep this equipment operating plus an on going monthly expense for the Internet connection.

The requirement that the General public have access to government information located in all Federal Depository Libraries, including the U. S. Court Libraries, will add to the cost of providing security for Judicial Officers and Court personnel at a time when the number of cases, specifically drug cases, with potential for violence, are rising.

3) SPACE. Most U.S. Court Libraries are restricted in the amount of space they have. The seating capacity is limited. The number of photocopiers are limited. The number of fax machines are limited. The number of fax machines are limited. The number of microfiche reader-printers are limited. The U.S. Courts Libraries are designed to carry out a limited mission -- to provide library and information services to the Federal Judges and Court personnel within a specific Circuit. Our libraries are designed to meet the needs of a very restricted and specialized constituency. Our spatial requirements and configurations reflect this very specific mission and special constituency we serve. Our limited and specific mission has dictated and dictates the number and type of Government documents we collect for our libraries. The requirement which goes into effect on Oct 1, 1996, forces on us a quantum leap in the amount of Government information we must now make accessible to the general public because it is now available in an electronic format. The increase in the members of the general public making use of Court facilities without actually being in the Courthouse to take care of business associated with the Federal Courts will put an increased burden on our available space, facilities and equipment.

Title 44, Section 1915 needs to be amended to exempt the U.S. Court Libraries along with the highest state appellate court libraries from the section 1911 requirement that all Depository Libraries, which presently includes the U.S. Court Libraries, be accessible to the general public.

We appreciate this opportunity to express our views and reasons for requesting that our U.S. Courts Libraries be given the same treatment as the highest state appellate court libraries.

Peter A. Trey Circuit Librarian

cc: Elaine Woodward,
 Documents Librarian
 Samuel W. Phillips,
 Circuit Executive

March 25, 1996

Honorable John Warner Senator SR-225 Russell Senate Office Building Washington, DC 20510-4601

Dear Hon. Warner:

I recently became knowledgeable of congress's decision to phase out print and microfiche resources of the Federal Depository Library Program (FDLP), via PL104-53 and to make these TAX PAID resources available to the public ONLY through electronic means. As I share my concerns with you regarding this decision, I hope you will be able to clearly see the terrible impact this law will have on your constituents.

I currently work as a librarian at George Mason University. I am the liaison to the Department of Public and International Affairs and the Institute for Public Policy. In addition to providing direct services to these two departments, I also work at the reference desk, helping the general public (students, faculty, and residents from the Washington DC metropolitan area and adjacent counties) fulfilling their information needs. Because I assist patrons on a regular basis in locating government documents, I am keenly aware of the devastating impact PL104-53 will have on library users.

Class assignments coupled with individual requests have a great impact on the need to easily and quickly access resources. We have classes that regularly have assignments that include the use of government documents. Resources in print and microfiche format have not only the advantage of being able to be accessed easily and quickly (as many online resources do), they are more conducive to multiple accessibility. Take note of this scenario, if the following group of VIRGINIA PATRONS need to use different government resources, simultaneously, student Sally Redmond is not affected by community worker John Jones, who does not affect homemaker Mary Moore, who does not hinder renowned professor Dr. Black, who does not hinder 11th grader Leroy Ray, who does not prevent Atty. Harry Bow from using the document he needs. Even if the online catalog of GMU's holdings is down, with the help of the SUDOC Catalog (another casualty?) and the knowledge and experience of the reference librarians, each of them can be taken to the appropriate area for browsing or the document(s) needed can still be retrieved.

Because only one person can use a computer at any given time, the preference to limit retrieval of documents to only an electronic format will place a tremendous burden on library users, who are heavily using the existing computers for a variety of CD and window based programs. It is not an unusual occurrence for them to wait for a computer to become available or to leave and come back hoping to find one unused. If the retrieval of government documents is confined to only one format, ONLINE, one could literally guarantee that the names listed in the above scenario as well as other VIRGINIA RESIDENTS will have to join waiting

lines at some point(s) during their future visit(s) to the library. They will have ${\tt NO}$ OTHER recourse.

The burden of the "online retrieval only" of government documents will also manifest itself financially. A lot of libraries are operating on a shoestring budget, therefore, they will not be able to purchase the additional computers that will be needed or the purchase of equipment will have to be done at the expense of eliminating other treasured services. In addition to the initial cost, the ongoing maintenance cost (utilities, equipment and software upgrades, etc.) will further burden their operating expenses. What will most likely happen is FDLP will be downloaded on the existing computers. The effects, the waiting lines are destined to increase. The invaluable cost is what VIRGINIA RESIDENTS will pay, which will display itself in eventual frustration to irateness.

To deal with lines formed for using computers, libraries will have to institute and enforce time limits, which could be anywhere from 15 minutes to an hour. Virginia residents will feel like this is rubbing salt into a wound. With the accessibility of government documents, via print and microfiche, they can usually view them without this time limitation and with print, some documents can be borrowed. Online retrieval requires they find as well as retrieve the needed information within this time constraint, whether they need to find it, need to read a portion(s) of it to make sure it is what they want, or need information from multiple government sources.

Since PL104-53 will eliminate the option that allows Virginia residents to borrow many government documents, their only recourse will be to print the needed information from the computer. Are they expected to incur this cost too? They have ALMEADY PAID for these documents. In addition, they will undoubtedly feel more pressure because of the effects the time limitations (discussed above) libraries will inevitably institute and enforce, if they do not already because of the heavy use of computers.

Finally, the \$500,000 that will be set aside to assist libraries in accomodating PL104-53 is barely enough. Will libraries be given ongoing financial assistance? If not, it is not fair to place this tremendous burden on libraries. However, the main victims are VIRGINIA RESIDENTS, who have very busy schedules and often can only spend a limited amount of time in THEIR library. Will their congressional representatives be there to explain Congress's actions when they feel the full effects of PL104-53?

Thank you for listening to my concerns and I look forward to a response from you.

Sincerely,

Lwindyn Halfax

6036 Richmond Highway

#408

Alexandria, Virginia 22303



Marshall-Wythe Law Library 804/221-3255 Fax 804/221-3261 Williamsburg, Virginia 23185

May 20, 1996

The Hon. John Warner United States Senate SR-225 Russell Senate Office Building Washington, D.C. 20510-4601

By Fax: 202/224-6295

Dear Senator Warner:

I would like comment on some matters in the Report to the Congress: Study to Identify Measures Necessary for a Successful Transition to a More Electronic Federal Depositor Library Program.

As you know, the College of William and Mary is a state-supported school. The law school library is a selective depository library that is open to the public. Individuals from both inside and outside the College use our materials, and we gladly assist those who use our collection of law and law-related materials, including our government documents. If GPO follows the recommendations of the report much governmental information will be available only in electronic format. I am concerned that if most government information is available electronically we will be asked, in essence, to assume the responsibilities of regional depository libraries. Although we do -- and want to -- serve the general public, our highest priority must be service to the College community. We do not have the staff to serve a much larger number of people wishing to access non-legal information.

I also must mention the continued importance of print materials, particularly in law and law-related fields. Although electronic information offers many advantages over print, students, faculty, and the general public need continued access to important governmental information in print format. Electronic products are not always easy to use, and most library patrons require staff assistance when they begin using an electronic product with which they are not familiar. Print materials, by contrast, are intuitive — we all know how to use them without assistance. I urge you to consider carefully the implications of making important governmental information available only electronically.

I am concerned about other matters of the report, but I do not want to take up too much of your time. I hope you had a chance to read the April 26 joint statement of the American Association of Law Libraries, American Library Association, Special Libraries Association, and Association of Research Libraries that was sent to Michael DiMario.

Thank you for giving me the opportunity to comment on the report.

Sincerely,

Jans Hello James S. Heller

birector of the Law Library and

Professor of Law

Chartered 1693

OLD DOMINION UNIVERSITY

Office of the University Librarian Norfolk, Virginia 23529-0256 Phone: (804) 688-4141 FAX: (804) 683-5767 (804) 683-5035



May 17, 1996

The Honorable John Warner Chairman, Committee on Rules and Administration United States Senate Washington, DC 20510-6325

Dear Senator Warner:

As requested, I am responding to the Government Printing Office's (GPO) "Study to Identify Measures Necessary for a Successful Transition to a More Electronic Federal Depository Library Program." This report was the focus of plenary sessions at the recent Federal Depository Conference attended by over 600 depository librarians. Most depository librarians support the seven goals described in the Study, but many have concerns in a number of areas including; access to materials, preservation of various formats, and costs in terms of initial hardware and software as well as measures to keep pace with the obsolescence of technology.

While GPO's primary goal in the past has been to print and distribute materials to depository libraries, it has also provided a more subtle role of serving as a coordinating agency. By this I mean a source of identifying, cataloging, and notifying libraries about federal publications. In an electronic environment this role will perhaps become the most important contribution of GPO and the Federal Depository Library Program (FDLP). We are already finding that agencies who have created sites on the Internet seem less aware of the need to standardize formats and make some commitment to long term preservation of material. Students, businessmen, and citizens will be ill served by having data available today that is difficult to access, meets no standard of being properly identified, referenced, and updated, and offers no guarantee of being available to meet the research needs of the next generation.

Although there are some valid search engines available for research on the Internet, there is not one that focuses on government information with any reliability. Therefore, it is imperative that projects like Pathway Services be funded and implemented to ensure that citizens are able to locate information easily. Librarians spend an enormous

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amount of time locating, indexing, and creating home pages and guides to assist citizens in navigating the maze of federal information. A centralized effort by l'DLP would provide a standard to facilitate access and to ensure cooperation by agencies. At present the Pathway Project offers a browse feature, but additional research to incorporate a full search engine is crucial to provide effective service. As hundreds of sites are added annually it would be impossible for individual libraries to take on the roles of monitoring such elusive information.

Libraries are faced with budgeting for state of the art hardware and software to meet the demands of Internet access, CD-ROM capabilities, and remote access for students, faculty and the general public. It is difficult to plan for the future when agencies and GPO are unable to give adequate responses to the types of formats that may be available. What percentage will be available from off-site servers, the Internet, CD-ROM? Even more than the initial costs are concerns for dealing with the obsolescence of hardware and software. Today's new technology is tomorrow's discard. Today's CD-ROM readers will not in all likelihood read tomorrow's CDs.

Federal agencies have not been very reliable in the past for adhering to any standard for search software on CD-ROMs. Typically, many of their products require one-to-one training and assistance by library personnel for effective use by patrons. This requires a trend of continuing education for staff and patrons and requires some commitment on the part of GPO to provide training conferences, seminars and workshops. While demonstrations are frequently offered at annual meetings, a more structured and intensive plan may be necessary as libraries and patrons are faced with learning to use hundreds of CD-ROMs with no common format. For example, very few patrons are able to use the popular 1990 Census CDs Extract software without staff assistance.

Long term preservation of materials is also of major concern as officials from GPO and the National Archives and Records Administration (NARA) could give few details as to their plans for assuring availability and usability of electronic products in the future. While CD-ROMs could be remastered by NARA it is unlikely they would be redistributed to libraries and most likely the public would find delays and difficulties in obtaining data from NARA. It would seem that both GPO and NARA need time and funding to study appropriate techniques for preservation of electronic materials, but even more importantly, they need to develop a plan for efficient access by the public.

Approximately 8,000 inquiries were handled using the federal documents collection at Old Dominion University during the last academic year. Users included faculty, students, businessmen, military personnel and the general public. Legal materials, Congressional bills, and statistical data are crucial to making effective decisions in local communities. While many individuals are fortunate to have workstations and Internet access at home and in their work environments, many still depend on the library as their only source of information. Costs in workstations, trained staff, and maintenance have been routinely absorbed by libraries; however, in times of budget shortfalls, funding for state of the art equipment competes with every other library resource. The electronic transition is not an inexpensive operation and the concept of equitable no-fee access for the public may unfairly burden existing facilities. It is very clear that costs for printing may have to be passed on to the public. For example, no library can sustain the cost of printing bills that are routinely several hundred pages in length.

The recent Study's attempt to extend the time frame for the electronic transition toward the year 2001 is much more realistic than the initial "Transition Plan" targeting 1998 for full electronic access. Electronic resources offer exciting possibilities for obtaining timely information in formats which can be readily manipulated. At the same time, they also require time for adequate planning to obtain hardware, train staff and patrons, and to develop a long term focus which ensures that data is not lost or diminished in value. Time is also needed to redefine GPO and NARA's roles in serving as coordinating agencies who maintain some control in obtaining and preserving publications from federal agencies regardless of format.

Thank you for providing this opportunity for public comment. Please feel free to contact our staff if additional information is needed.

Sincerely yours,

Jan a Major
Dr. Jean A. Major
University Librarian



Office of the Dean of University Libraries Tele: 804/221-3055 Fax: 804/221-2635 nhmars@mail.wm.edu Earl Gregg Swem Library P.O. Box 8794 Williamsburg, Virginia 23187 -8794

May 13, 1996

The Honorable John Warner, Chairman Committee on Rules and Administration United States Senate Washington, D.C. 20510-6325

Dear Senator Warner:

Thank you for offering me this opportunity to make comments and recommendations concerning the Government Printing Office's Study to Identify Measures Necessary for a Successful Transition to a More Electronic Federal Depository Library Program (the Study) and on the Depository Library Program (FDLP) in general.

Depository libraries are service-oriented organizations. Swem Library has been providing free access to federal government information to the citizens of Virginia since 1936. In the past year, approximately 13,000 requests for help in locating government information were received in person, by telephone, and by email in Swem's Documents Department. This figure represents a conservative estimate of the average number of users annually, since it does not include those who locate government information through the library's computer catalog and find material without requesting help.

Our library's ability to provide good service to our users depends upon the ability of GPO to provide high quality bibliographic and dissemination services. The GPO Study is a good effort to outline a process by which the FDLP can use advances in information technology to improve public access to federal government information. My primary concerns with the Study and the future of the FDLP center on five topics:

Time Frame: The five to seven year period of transition envisioned in the Study is an improvement over the two year changeover desired by some in Congress. While our library has the technology and staff expertise to provide federal information in electronic formats (although many smaller depository libraries in rural areas of Virginia probably do not), it received only about 1% of federal information in electronic formats last year. Many of our users are not prepared to deal with electronic information, and the publishing agencies have not been providing GPO with electronic source files. More time is needed for libraries to acquire the

needed hardware and for government officials to determine who will perform crucial and costly archiving and public access functions.

Useable formats: Federal information, like other library materials, must be in appropriate and user-friendly formats. When information is packaged in inappropriate or unfriendly formats, patrons fail to use it. Economic data files, from which patrons want to extract bits of data in a timely fashion, are suitable for delivery as online electronic files. Major government reports or lengthy hearing documents, where extensive reading is necessary for comprehension, are not suitable for online electronic formats. If all federal information, regardless of its nature, is forced into electronic formats, much of it will be overlooked or underutilized. Major reports will be too lengthy to be read onscreen and too costly to be printed. The format will become a barrier to usage. Hearings and other major government reports should continue to be available in printed formats so libraries can continue to preserve and make them available to future generations of researchers. In other words, the Senate's intention to have the FDLP move through a carefully planned transition to a "more electronic program" should prevail over demands for a crash program to bring about an all-electronic program.

Costs: The Study asserts that the transition to an electronic system will result in cost efficiencies that will benefit all participants. But the primary thrust of the plan is to shift costs toward the end user-libraries and their patrons-- where timeconsuming printing of long documents would have to be done. No examples of cost savings for patrons are specified in the Study. This cost shift amounts to an unfunded mandate imposed by Congress on the states and localities, from which most depository libraries receive their funding. The purpose of the transition to a more electronic FDLP should be to expand the public's access to government information in the most cost effective way for all participants, not to reduce costs for federal agencies without regard to the consequences. As the Study points out, there is no data to support the conclusion that adoption of electronic information formats "will result in significant savings to the program as a whole." Rather than having the federal government assume all costs for ensuring permanent public access to government information, consideration should be given to retaining print formats for hearings and other major reports where responsibility for permanent public access can remain with the depository libraries.

Restrictions on information availability: Over the past year, budget reductions in federal agencies have resulted in agency actions to generate revenue from information products. Materials that were formerly received free by libraries from the FDLP are no longer available or o.lly available through purchase or subscription from the agency or a commercial agent. In a rush for extra sources of revenue, agencies have ignored their responsibilities under Title 44 to make information available through the FDLP. Government information should not be copyrighted or distributed through exclusive arrangements with a single vendor. Title 44 should be revised to explicitly include information in electronic format as part of the FDLP. Agencies should be prohibited from allowing commercial vendors to

acquire monopoly control over federal government information.

Preservation: The Study is vague on who is responsible for long term preservation and access to government information. The National Archives has primary responsibility for preserving master copies of major policy documents, but NARA is not staffed or funded adequately to become a national library for users who want access to routine hearings or reports twenty or thirty years after publication. If the strength of electronic information is its speedy availability, the weakness is its intangibility. Once removed from an agency web page, where will it go? How will researchers find it? More careful planning needs to be done before moving rapidly to electronic information delivery systems to insure that important information will not simply disappear.

What works well with the FDLP is the mutually beneficial relationship between the federal government and the libraries. The government agency publishers have a mechanism for disseminating their information to sites in every Congressional district in the nation without having to pay a dime for the staffing, storage space, or equipment needed to make that information accessible to the public. Studies have shown that the libraries invest \$3 for every \$1 spent by the federal government to make the FDLP work successfully. The libraries receive important information about the policies and programs of the federal government without charge but with the responsibility of providing no fee access to all citizens.

The transition to a more electronic FDLP must protect and preserve this core value of free access to federal government information for all citizens through libraries. Of course fees can and will be added for photocopying or printing personal copies for individual patrons. The crucial role of the GPO as the central disseminator and cataloger of the information must be strengthened through legislation so that federal agency information products will be transmitted through the FDLP and standardized descriptive records for those information products will be available to librarians, researchers and citizens searching computerized library catalogs and the Internet.

I hope these comments on the FDLP have been helpful. Please let me know if I can be of further assistance.

Sincerely yours,

Nancy H. Marshall

Dean of University Libraries



NATIONAL DEFENSE UNIVERSITY ARMED FORCES STAFF COLLEGE NORFOLK, VIRGINIA 23511-1702

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Library 16 May 1996

The Honorable John Warner United States Senate Committee on Rules and Administration Washington, D.C. 20510-6325

Dear Senator Warner:

I have met with key staff members of the Armed Forces Staff College library, those people who receive and mark the FLDP documents initially, catalog them, and use or direct others to use them. As a result of our meeting, we have the following comments and recommendations for the Committee on Rules and Administration.

- a. Recommend that the shipping lists, if continued, be tailored specifically for the institution. This would decrease the amount of time library staff spends on the initial inprocessing phase and would be a better record of the documents we should receive.
- b. Recommend that libraries be allowed to **add** new documents more than once a year. This will give us more flexibility.
- c. Recommend that new items not be sent automatically. Go back to the "survey" and "card" method for the selection of new items, but do it via electronic mail or the Web site.
- d. Send the institution's profile to documents shelf-list vendors such as Bernan more than once a year.
- e. Make the complete $\underline{\text{Code of Federal Regulations}}$ available on CD-ROM through the FDLP.
 - f. Make unclassified Presidential Decision Directives available to depository libraries.
 - g. Make committee hearings available online.
- h. We are constrained by our available hardware. We have recently completed a budget through 2003. Recommend that the fully electronic Federal library program be phased in over

the next five to seven years. It will be difficult to serve all customers in a fully electronic mode by 1998.

- i.. We are concerned about the learning curve for staff. We must train our staff members first to use electronic materials, load software, and then train depository library patrons who may not be as computer literate as Armed Forces Staff College students. Every piece of "electronic" data seems to work differently, and our staff must learn how to use them all. Right now, there is no uniformity in software, search engines, etc. All government documents in a CD-ROM format should have the same search engines and the same software. This is critical. We will then need to load the software only once on each machine and everything from the FDLP will use this same software. We urge the FDLP to STANDARDIZE, STANDARDIZE, STANDARDIZE.
- j. In the future, government documents should be combined or grouped by spans of SuDocs numbers so that everything from one agency can be found on one disk or on one electronic database or sub-database.
- k. Have a help desk at GPO for all and each and any GPO item. We are frustrated by being referred from desk to desk to desk. A two way electronic help desk would be even better.
- l. The report states that "Expanded services to libraries include ... locator services, user support, training, and documentation." Please keep in mind that many libraries have very limited travel funds. We must have easy access to regional training sites. Access within one hour or less of driving time would be ideal.
- m. Set the ultimate goal of the FLDP as follows: Have one, online Federal depository database, fully searchable, using keyword and Boolean searching. All paper and microfiche items received by the program in the current calendar year should be available in full text via the Internet. Items received and sent to depository libraries in CD-ROM format should continue to be shipped, following the current practice. Archive superseded years at the regional depository libraries. As designated in the report, continue to send core items in hard copy to selected and regional depositories.
- n. The report states that depository libraries ... offer the "ability to access, download, and print extensive documents." Printing a large document is very time consuming and expensive. It also reduces the number of workstations available to patrons. If a library has only one workstation available for use by depository library patrons, and one patron is printing out a long report, other patrons will have to wait, return, or the library may have to resort to an awkward "appointment" system. We would prefer the option of allowing patrons to download documents directly to their own disks rather than printing a document.
- o. Urge your fellow Senators to understand that people who read still like to read and handle the printed page, and no one has yet come up with a way to successfully take a computer and associated peripherals into one of the best and most popular reading locations known the bed!

Thank you for giving the librarians of the Armed Forces Staff College the opportunity to respond to the Committee's concerns. If the Committee has additional questions, my telephone number is (804) 444-5155.

Sincerely

Gail Nicula Library Director



User Services Department

University Libraries P.O. Box 90001, Blacksburg, Virginia 24062-9001 (26) 2314762 Dx: (410) 12312-163

May 15, 1996

The Honorable John W. Warner Chairman Committee on Rules and Administration U.S. Senate Room 305, Russell Office Building Washington, DC 20510-6352

Dear Mr. Chairman,

I am grateful for the opportunity to reply to your letter of April 26, 1996. The University Libraries at Virginia Tech were designated a depository library in 1907 and plan to continue in the FDLP leng into the electronic depository era. As an academic library at a state university in Virginia and a large depository we are well equipped with hardware, software and connectivity to serve the University community and the Ninth Congressional District. The Depository Library Program has served us well in the past and we can adjust to a predominately electronic depository within the mandated two year timeframe.

Virginia Tech is located in a rural congressional district and I fear that other depositories in the district at smaller institutions, as well as depositories throughout the country in poor and/or rural areas with smaller collections will be unable to contend with the technology with the speed and versatility possible here. The electronic depository program will create a class of haves and have-nots in the short term and probably long into the future. The electronic depository is designed to reduce the federal government's costs of printing but is in reality only shifting the costs to the depositories and our constituents. A publication that can now be checked out and used by any library patron will soon cost either the library or the patron to print. In the long run this will not be an insignificant cost.

I am concerned that information is provided in appropriate formats to meet the needs of users (Goal 3). This is most evident in graphical publications such as maps. A small number of my academic constituents have the capability to use electronic cartographic data and print products comparable to those now available from the Geological Survey, Bureau of Land Management and other agencies. I doubt that the University Libraries, with their vast technological capabilities, will ever have the equipment necessary to reproduce maps. Appropriate format in this case is paper, as it has always been.

I am also concerned about preservation and continued access to government information (Principle 4, Goal 6). Presentations from both GPO and NARA have not alleviated my fears that information deemed not essential now but of historical value will be lost to future generations of researchers.

The Honorable John W. Warner May 15, 1996 Page 2

Lastly I am concerned about the proliferation of software and lack of coordination of electronic products being introduced into the FDLP and the continued efforts of private publishers to be the only conduit for printing government gathered information. Both instances are leading to public gathered information being copyrighted or accessed through copyrighted software, reducing my constituent's access to and use of the information.

Government documents at the University Libraries are completely integrated into total library collections, thus patron and usage statistics are impossible to distinguish from library totals. This is an unfortunate circumstance for statistics gathering but a fortunate one for our patrons who readily find and use government publications along with other materials on a daily basis.

Again I want to thank you for the opportunity to express my thoughts and concerns on this matter.

Sincerely,

Bruce Obenhaus

Government Documents Librarian



May 16, 1996

The Honorable John Warner 154 Russell Senate Office Building Washington, DC 20510-4601

Dear Senator Warner,

Thank you so much for your request for information and input regarding the Federal Depository Library Program.

I am enclosing a response to your request from our automation specialist and our government documents librarian. Please let me know if we can be of further assistance to you.

We are grateful to you for your interest and for asking us to provide you with this information.

Sincerely yours,

Sally G. Reed Library Director



Comments and recommendations in reply to Sen. John Warner's letter, April 26, 1996:

- 1. The capability of your library and your library's users to become more electronic in the time frames contemplated for this transition
- Norfolk Public Library has long anticipated the transformation of government documents from paper to electronic format. We have struggled, often without help, to provide computers and connectivity to all the citizens of Hampton Roads, regardless of income, level of computer expertise, or physical disabilities. At the present, we have Internet access through WHRO, our local Public Broadcast Station. Through donations from Civic Leagues, Friends of the Library, and private corporations, we have enough state-of-the-art computers to provide at least two public access points to the Internet from each of our eleven branches spread throughout the city and to create a ten-computer lab at Kirn, our main library. Unfortunately, the only connectivity we have to the Internet is dial-in, using 14.4 modems. Most branches only have one phone line. We need high-speed connectivity to access and retrieve large documents, forms, datasets, graphics and, from the Library of Congress, sound and video files.

Government documents in paper format require the expertise of a government documents librarian to use. (E.g., It does patrons little good to have access to Census Department data if they do not understand the difference between STF1A and STF3A.) Most library users will require the assistance of a government documents librarian to use federal information whether that information is in paper or electronic format. In electronic format, the information will be available at all of our branches, but all of our branch librarians will have to be trained in government documents in order to take full advantage of the resources.

The citizens, through their support of our efforts, have demonstrated they want this information access. As librarians, we want to provide accurate, timely, relevant information to all our patrons. The Government Printing Office is taking steps to make this information available online. We have begun training our branch librarians in the use of government documents. The next logical step is for the Federal Government, in its efforts to build an Information Infrastructure, to provide free, high-speed, Internet access to all Federal Depository Libraries. Computers, software, databases, and trainers do no good if we do not have adequate access to the Internet.

- 2. Access to public information from federal executive and judicial branches of government
- Our patrons want and need information from the executive, judicial, and legislative branches. From the executive branch, for example, people constantly use census data, information on the federal budget, and patent information. From the Department of State, people want to know names, addresses, phone numbers of heads of state. Businessmen and students alike use the CIA World Factbook to get detailed information on the infrastructure of foreign countries. Just a few of the major databases are: tax information and forms from the IRS; the Small Business Administration publications; the National Library of Medicine; the Department of Labor's publications such as the Occupational Outlook Handbook and Consumer Price Index which are used daily; Commerce Business Daily has high usage by small businessmen seeking government

contracts. From the judicial branch, patrons use Supreme Court cases for both current and historical research. From the legislative branch patrons have constant questions regarding their representatives' names, addresses, phone numbers, and e-mail accounts. They want information on current bills as well as Public Laws and the Code of Federal Regulations. They use the Congressional Record frequently.

- 3. What is working well with the overall FDLP; what needs to be changed in order for your library's federal depository program to work better
- Basically, what is working well is that the material continues to come in a timely manner, for the most part.
- In order for our library's federal depository program to work better, we need more staff training on the content of the material we receive, irrespective of the format. We also need better connectivity to the Internet. There also needs to be a planned migration path for upgrading hardware and software. This involves funding at the federal level. Since the FDLP was designed to provide free access to federal information to the taxpayers, there seems to be some responsibility of the federal government to provide hardware, software, and connectivity to the public libraries that provide this information to all citizens.
- 4. Estimated average number of users of federal information through the FDLP on an annual basis at your library at present
- Estimated average number of users of federal information, based on statistics gathered for the last complete fiscal year 40,000 users.

VIRGINIA MILITARY INSTITUTE

LEXINGTON, VIRGINIA 24450-0304

PRESTON LIBRARY Phone 703-464-7129 Fax 703-464-7279

May 6, 1996

225 Russell Senate Office Building Washington, D.C. 20510

Dear Senator Warner:

Thank you for your recent letter regarding the Senate Committee on Rules and Administration which will hold hearings on the Federal Depository Library Program (FDLP) on May 22, 1996.

We are excited about the prospect of providing GPO information to patrons in electronic form. As you may know, a couple years ago, Virginia embarked upon the Virtual Library of Virginia (VIVA). This has been a highly successful project in which the state supported colleges and universities have been able to obtain several resource tools and databases and share them through the Internet. The private colleges have also been able to benefit from this project. This project has had the benefit of providing many resources to more schools than was economically possible before.

At the present time, GPO information comes several formats: print, microfiche, and CD-ROM. We would favor seeing the FDLP move towards providing information on the Internet through the World Wide Web. There are several advantages to this.

WWW available government information means that government information would have a uniform end common format. This would result in materials and personnel resource savings since materials would not have to be duplicated in multiple formats. No longer would someone have to print and film materials, or produce CD-ROMs. Once the information was produced in a WWW format the work would be done. Savings could also be realized in delivery costs. There would be no need for postage, packaging, or using gasoline. These are savings for the government. For individual libraries it would mean that librarians would not have to contend with multiple formats or check in items since they would be online at centralized sites.

Such a move would also provide greater access to government information. Some libraries are full depository libraries while others are partial depositories. If GPO put it's information on the Web then libraries with Internet access (and most if not all libraries who participate in FDLP have Internet access) would have access to the full range of government information. The distinction between full and partial depositories would be lost. It would also be technically possible, and without too much effort, for libraries to continue to be partial depositories through the WWW. An online subscription profile could be developed for libraries so that they might have access to only materials they marked. Whether this is desirable or not is a question that would need to be discussed.

With regard to the requests in your letter:

 The capability of your library and your library's users to become more electronic in the time frames contemplated for this transition



We are capable now.

2. Access to public information from federal, executive, and judicial branches of government

See above.

What is working well with the overall FDLP; what needs to be changed in order for your library's federal depository program to work better

Overall, the FDLP works well. Please see the above comments as to how to make it work better.

4. Estimated average number of users of federal information through the FDLP on an annual basis at your library at present

This is difficult to answer for us to answer since we do not have an accurate way of measuring usage of our government documents. There is a wealth of information available through government documents. Making the materials accessible through the WWW would greatly enhance their use and usefulness. We would also be able to monitor usage through this means of access.

Thank you again for your letter. Please let me know if I can be of further assistance to you in this matter.

Sincerely,

Don Samdahl Librarian



City of Chesapeake

Office Of The Director Chesapeake Public Library System 298 Cedar Road Chesapeake, Virginia 23320-5512 Telephone (804) 547-6579 FAX (804) 436-8301

May 13, 1996

The Honorable John W. Warner Chairman, Committee on Rules & Administration U. S. Senate Washington, DC 20510-6325

Dear Senator Warner,

Thank you for your invitation to comment and make recommendations on the Federal Depository Library Program (FDLP) and the recent Government Printing Office Study on a Successful Transition to a More Electronic Federal Depository Library Program. The Chesapeake Public Library's Depository Library Documents Coordinator and I have read carefully the draft Study. The Coordinator also benefitted from attending the recent Depository Library Conference where the draft study was discussed in detail.

We concur with the Principles for Federal Government Information and the Mission and Goals for the Federal Depository Library Program presented in the draft Study.

The Chesapeake Public Library is able to meet the Recommended Technical Guidelines for Federal Depository Libraries. Plans by the FDLP to work toward standardization of file formats will help us, in the future to afford the software, hardware and training necessary to assist the public with electronic government information. We do share the concern of the draft Study that users should have continuing access to some important information in paper format when it is "appropriate to the needs of users and intended usage." Not all government information products are equally suited for local printing and downloading for the users of our library.

Electronic access to recent Supreme Court and United States Court of Appeals opinions is outstanding and very useful. The Government Information Locator Service (GILS), GPO Access and U.S. Business Advisor allow for easy approaches to federal executive information. We agree with the draft Study that the use of fee-based services by self-supporting agencies does seem to compromise the public's right of access to government information.

The Library Programs Service (LPS) is supportive of, and responsive to, depository librarians. The FDLP works well because of constant communication, much of it through Govdoc-L, a listserv on the Internet. Problems are quickly resolved and much useful information is exchanged. GPO is also doing a good job with training, as is evidenced by the very useful sessions at the recent Depository Library Conference. As more and more

"The City of Chesapeake adheres to the principles of equal emplayment opportunity." This policy extends to all programs and services supported by the City." LETTER: The Honorable John Warner

DATE: 5/06/96 PAGE: 2

information moves to electronic format, and is available in every depository, training will become of greater significance for depository libraries, most especially small selective

depositories.

As the number of information services available through the FDLP grows, both user support and cataloging of new electronic materials will become equally as important as training in assisting small depositories in their service to the public. We hope that the FDLP will have the resources to assure the quality of those services.

The Chesapeake Public Library System is integrating its depository collection into its circulating and reference collections. This should make existing materials more visible and increase their usage beyond the current estimated 3000 users annually. As the number of Internet accessible terminals within the library systems grows, we expect more usage of pointers to federal documents on the Chesapeake Public Library Web Page.

Please let me know if I can be of further assistance.

Sincerely,

Margaret P. Stillman, Director
Libraries & Research Services

cc: Clarence V. Cuffee Interim City Manager

The Honorable Norman Sisisky

George Mason University

96 HAY 21 AM 5: 39

Fairfax, Virginia 22030-4444 (703) 993-1000 TDD: (703) 993-1002

> The Honorable John Warner, Chair United States Senate, Committee on Rules and Administration Washington, DC 20510-6325

Dear Senator Warner:

I am writing in response to your request for input on the draft report of the Congressionally-directed <u>GPO</u>
<u>Study on a Successful Transition to a More Electronic Federal Depository Library Program.</u> You asked for a response specifically to four points in your letter, and I have addressed these points below.

1. The capability of our library and our library user's to become more electronic in the time frames contemplated for this transition.

George Mason University currently has a solid foot in the electronic frontier. However as with most state sponsored institutions the number and quality of computers is often behind the necessary requirements to run many programs. The university will be able to provide general access to the material available both on the internet and in other electronic formats. What is in question is will the library be able to maintain historical files of the information that is out there. Space considerations as well as cost considerations of data storage will need to be considered. Migration of data from one form to another will also cause some concerns in meeting the stated goals.

The federal government produces a variety of databases currently and under a revamped Federal Depository Library Program(FDLP) would produce several more. Many of these databases do not have the same software to run the databases. For example, Bureau of the Census databases on CD-ROM do not contain the same software as those produced by the Agriculture Department or the Department of Health and Human Services. This makes it more difficult to look at the data that is now available because people need to be adept at using several different types of software. It also effects the computer because it can only store so much information and currently the machines I use to run the CD-ROMs can not handle all the different software that is needed to access the various databases.

Recently a great deal of information has begun to appear on the internet. Generally this has made it easier to use some material that has been on CD-ROMs. However, it also has drawbacks in accessibility. The accessibility has been hampered due to agencies duplicating efforts as well as a lack of knowing WHAT all has been made available.

- 2. Access to public information from federal executive, and judicial branches of government. AND
- What is working well with the overall FDLP; what needs to be changed in order for our library's depository program to work better..

The FDLP works well on the whole when used by the federal agencies. In the past federal agencies would send their printing jobs to the Government Printing Office (GPO) for publication and distribution through the FDLP. In recent years several agencies have sought to reduce printing costs by outsourcing the work. This has led to an increase in material published by federal agencies NOT being accessible to the FDLP.

Other federal agencies have used the National Technical Information Service (NTIS) for printing and distribution. The NTIS publishes material for sale to the public and although the cost is usually considered reasonable, many individuals or libraries can not afford the cost of acquiring these publications. Given that government information is a public asset and a cornerstone of a democracy and that the public has been guaranteed access to public documents via Title 44 of the U.S. Code, it has become hard to view some of these changes in publishing activities as right or desirable.

Now material has begun to be available electronically either in some stored files such as on floppy disc or CD-ROM or via the internet. Many federal agencies have been encouraged, due to provisions in the paperwork reduction act, to publish electronically. Although this makes the material available to the public, it does not specify how the public is to access the material. That has been left to other people.

One of the consequences of this electronic publishing is that access has decreased. material is often not easily accessible because no on , other than the individual that placed the information on the internet, knows it is there. The former role of the GPO and FDLP were to organize the information and make it easily accessible. Now as materials are eliminated from paper formats, there is no reason to send it to GPO and therefore no way for the FDLP to catalog, organize or maintain the information. Agencies can place material on the web one week, and remove it the next without anyone specifically knowing it was there. This would mean technically the information has been made public but the material probably has not been preserved as older paper materials were. Federal agencies need to be congratulated for getting their information on the internet, however there needs to be some provisions for knowledge of WHAT exactly it is they have placed there.

Currently one institution in each state maintains ALL government publications released through the FDLP forever, meaning the information will be accessible for people needing historical reference. Currently there are no guidelines for who will maintain copies of government information from the internet. This is because the federal agencies once required to provide information to GPO for publishing now do their own publishing. Because the agencies do not let GPO know what is available, libraries can not maintain what they do not know exists, and are not legally required to do so for material not received through the FDLP. In addition, the storage of electronic files varies from storage of paper. Mediums for accessing electronic information have changed in just the few years that it has been available. Some method of requiring federal agencies to notify GPO of electronic files needs to be instituted in order for these materials to be maintained for future use. Although the agency itself may not need the file, the citizenry may.

It also is not an acceptable option for agencies to sell the files to commercial vendors as this puts the accessibility of the material into question. There are plenty of options open to commercial vendors of public information, to add value to the information in their own way. The basic access to this information however, needs to be maintained.

The above is also true when it comes to legislative branch information. This material must also be made available for electronic publishing, organization and long term maintenance.

4. The estimated number of users of federal information through FDLP annually at our library.

Currently we probably see about 8200 people on a yearly basis for information contained in government documents. The material is accessed not only by researchers and students but also members of the general public come to Fenwick Library seeking various materials published on a variety of subjects by the government. I should add that these numbers reflect the students and public which access our materials in paper formats. We also offer access to students and the public to the internet through our World Wide Web site. We don't have any current statistics which have measured the number of users of various federal information sites through this means of access.

Sincerely

Stephen E. Stratton

Government Documents/Geography Librarian

George Mason University



SIMPSON LIBRARY

22 May 1996

Senator John Warner Committee on Rules and Administration Washington, D.C. 20510 - 6325

Dear Senator Warner;

Thank you for providing this opportunity to address the matter of proposed changes in the Federal Depository Library Program. This liberal arts college library, serving the Fredericksburg, Virginia, has participated in the FDLP for almost fifty years. We have encouraged the use of our partial depository collection of the U. S. Government Printing Office's selected items in the curricula of the college as well as promotional programs highlighting our collection for the local citizenry. We have seen an increasing level of use in this collection. Additionally, a reflection of the seriousness and commitment this library has taken in its charge to serve the public with this depository collection has been evidenced in the numerous "outstanding" reviews awarded by the FDLP inspectors. I mention our long-time participation and commitment because regrettably sometime this year this library is going to have to discontinue its participation in the FDLP.

The principal reason for discontinuance reflects the loss last year of one of my staff members to an early-retirement buyout in a round of state employee reduction-in-force incentives. We had hoped that this position which managed all aspects of our government documents program would be judged by the Governor's review team to be essential and therefore would be refilled. Our application to save this position, which highlighted the increasing focus on electronic information delivery systems, was denied. My staff has maintained that the FDLP program has provided a valuable information resource to the citizenry of this region, but apparently others in authority did not feel it was important enough. I have managed to continue our FDLP status as a result of redirecting the work of one of our other employees. Now, however, I must face the hard fact that other work performed by this reassigned employee is simply not getting done. As I keep putting off the inevitable, I am aware that at some point I will simply have to stop trying to maintain our document depository status. I fear the announcement of this decision will be a public relations disaster because few will know the factors which led up to it.

Your letter raises several specific questions that we in the library have discussed at length. While we may not be in the FDLP for much longer, I will address the questions. We are currently pretty well equipped to meet most of the demands for the new technologies proposed. We purchased a dedicated high speed, high memory workstation for our GPO CD-ROMs a year ago. While

we have been able to invest heavily in our technology efforts, I am certain that some FDLP participants will be hard pressed to find the funds to acquire the specified public work stations. Personally, I think the level of expectation for a minimal system, "appropriate hardware and software," as listed in the Guidelines is a bit presumptuous.

The current dedicated workstation does not have an Internet connection. With the FDLP Guidelines calling for that link we will have such a connection up later this year. Our campus communications ATM backbone provides all student rooms, faculty offices and library easy access to the Internet; and the provision of this type of connection to the local citizenry was not addressed in our original technology plan. Our students and faculty show increasing sophistication in the use of electronic information resources. Were we to have had any reservations about any of our users' ability to make use of the new technologies it would have been with our local, non-academic, population. In the traditional service mode of print materials we could assume that our patrons could read and therefore make use of the materials we provided. With the arrival of workstations running Windows95 and a variety of sophisticated software used by the various governmental agencies as the gateway to GPO's Access, we know that there will be many without the skills to make the technology work for them. With our already heavy instructional commitment in bibliographic services and the new electronic resources for our primary clientele we have concluded that we would not be able to meet instructional needs of this non-institutional, problematical group of patrons. We simply do not have a staff large enough, with enough unallocated time, to walk every patron through the learning curve for the use of the new technologies. As a group the technologically uninitiated may be overwhelmed by the complexities of the new resources. By way of example, our direct observation would suggest that a firsttime user of the new technologies encountering a Census report running as a Tiger file is by definition bewildered. Within our staff we have regrettably concluded that there will be individuals who will simply be left behind as the level of technological expectations rise.

Over the years our Depository has reflected the academic nature of the institutional base from which we operate. We have a primary constituency of more than four thousand faculty and students and many of them use the resources provided through our participation in the FDLP in their studies and research. As for the local population served by this depository we tried in 1994 to maintain a count of the local citizens who availed themselves of our depository collections. While the count was far from exact, we identified over seven hundred patrons from the area who had used the GPO materials in that one year period. Additionally we have provided local federal, state and municipally elected officials with information and research support from our collection.

I wish you well in your deliberations.

LeRoy S. Strohl Library Director



VIRGINIA STATE UNIVERSITY

PETERSBURG, VIRGINIA 23806-2096 95 HAY 28 AM 2: 45

> (804) 524-5040 TDD (804) 524-5487

May 21, 1996

The Honorable John Warner
Chairman
Committee on Rules and Administration
United States Senate
Room 305, Russell Offic eBuilding
Washington, DC 20510

Dear Mr. Chairman:

Thank you for the opportunity to respond to a proposed transition to a more electronic Federal Depository Library Program. I will provide insights on the four issues that you seek input.

Capability of Library and library's users to become more electronic in for the transition

Johnston Memorial Library has been a selective depository since 1907. The library has been responsible for providing citizens of the fourth congressional district with government information. Until recently the library strictly maintained hardcopy documents. The library is now fully automated with a Local Area Network, public workstations on each floor of the library, online public access catalog, and serves as a gateway to unlimited government information via the Internet. The collection has approximately 181,000 federal and Virginia publications, including paper, microform, and compact discs. Also, library users now have access to government information through the Internet. A Government Documents librarian as well as Reference staff have been trained in the use of electronic information resources and continuously train library users to search and retrieve government documents.

Access to public information from federal executive and judicial branches of government

Locally, the Government Documents department has a workstation with a laser printer for public searching. Users also have access to GPO documents and Public Affairs information on CD ROM. In addition, all public patrons have access to a wide range of government documents through the Internet. The library maintains public workstations on each floor to provide access to the Internet. Johnston Memorial Library participates in a statewide consortium called the Virtual Library of Virginia (VIVA). This resource sharing consortium developed to provide unlimited access to the faculty and students at the state's public colleges and universities is also used by the general public patrons who enter the library seeking information.

"VSU: Education, Research and Community Service in Central and Southside Virginia..."

An Equal Opportunity Employer/Equal Access Institution

Assessment of FDLP

The Federal Depository Library Program over the years has been instrumental in providing statistical and other important information to the general public. The move to an electronic distribution of government publications is in step with the widespread use of computing and information technology in both public and private sectors. Even libraries that may not be fully automated at this time will be forced to move to a technological environment: many resources in the future will only be delivered through electronic means. Users will have access to more government data electronically than was available in traditional formats. Also, there is the advantage of the currency and timeliness of data. The hard issues that must be addressed are: (1) standard formats and indexing of electronic government publications for easy retrieval; (2) archival data, that is, access to useful data once it is removed from the Internet; (3) economic burden placed on depository libraries for previously free publications that would be commercially available through publishers. These issues require some hard critical thinking and thoughtful reflections in order to continue to provide government information to a wide spectrum of public users who range from the technically astute information rich to the less fortunate information poor.

Estimated annual users at Johnston Memorial Library

Estimated average number of users is two thousand per year. Circulation of materials is close to 600 items per year.

We look forward to policies that will continue to serve the public.

Sincerely, Wathering

Elsie Stephens Weatherington, Dean Library & Technology Services

LAW LIBRARY University of Virginia 580 Massie Road Charlottesville, VA 22903-1789

Office of the Law Librarian

Phone: (804) 924-3384 Fax: (804) 982-2232

June 10, 1996

The Honorable John Warner U.S. Senate 225 Senate Russell Office Building Washington, DC 20510-4601

Dear Senator Warner:

Thank you for the opportunity to comment on the draft GPO "Study to Identify Measures Necessary For a Successful Transition to a More Electronic Federal Depository Library Program." I am pleased that the Senate Committee on Rules and Administration is holding a series of hearings on Public Access to Government Information in the 21st Century. I am writing in an individual rather than official capacity, although my comments are based on my 20 years experience at the University of Virginia Law School Library.

As you know, the Federal Depository Library Program (FDLP) has existed for over one hundred years as a very successful partnership between the federal government and libraries. The dissemination of government information through depository libraries has been very cost effective way of getting such information to citizens. The depository library provides the local link to the information and assists the federal government by providing the space, equipment, reference, training, and user support necessary to connect the researchers with the government information they need. The University of Virginia Law Library has been a member of the FDLP since 1964 by Senate designation.

The use of new technologies to expand the public's access to and timeliness of government information is welcome. I am pleased that in the March 1996 draft Study, that the Government Printing Office recommended a five to seven year transition to a primarily electronic depository system, a more realistic time frame than the two year transition period proposed last December. I am not at all certain that our library would have been capable of utilizing most government information in an electronic format within the two year period.

While electronic access brings substantial benefits, it also raises new questions, problems, and costs. A significant issue is the lack of quality control over information available on the Internet, and a means needs to be established to identify and catalog government information in a systematic and centrally coordinated way so that the public can identify it.

The Honorable John Warner June 10, 1996 Page Two

In addition, standardization is necessary to avoid researchers having to learn a number of different operating systems to utilize various databases. The introduction of any new system necessitates retraining not only depository librarians, but users as well—a process that is expensive to researchers because of the time this requires, and to depository libraries because of the staff training that it entails.

I am also concerned about the extent to which our institution would be held responsible for providing the whole range of federal electronic information, as has been proposed. As I understand it, if the Government Printing Office indicates that certain online information is depository, then we are required to have it. Now, however, we select the publications we need, approximately 22% of all depository materials and obviously those materials most likely to be used in legal research. If we were required to deal with additional information, especially scientific and technical reports, we would lack the expertise and supplementary reference materials necessary to do this work effectively.

For the most part, the Federal Depository Library Program has worked well for us. We are able to select those materials which most of our users need, and while it would be useful to be able to be more selective in deciding on some categories, the problem has not been a burdensome one. Our most difficult problem is in learning of and acquiring materials that are not distributed as part of the depository program, largely publications of the executive and judicial branches. We devote significant staff time to identifying and acquiring these materials and would welcome any improvements in making such publications more readily available.

If I may be of any further assistance, please do not hesitate to contact me.

Sincerely yours,

Larry B. Wenger Law Librarian and Professor of Law

LBW/isc

WASHINGTON AND LEE UNIVERSITY

Lexington, Virginia 24450

Law Library

May 20, 1996

Senator John Warner Chairman United States Senate Committee on Rules and Administration Washington, DC 20510-6325

Dear Senator Warner:

This is in response to your letter of April 26, 1996 concerning the Federal Depository Library Program.

Washington & Lee University's Law Library, like most law school libraries, is already highly computerized. All offices have PCs and students have the use of about fifty PCs in the building with Internet access. Although faculty, staff, and students have ready access to Congressional and judicial documents through the Law School's contracts with the Westlaw and Lexis legal database suppliers, library users not affiliated with the Law School are contractually barred from such access. Those users must rely on the paper and microfiche copies of documents supplied through the Federal Depository Library Program for access to important sources such as U.S. Code, Federal Register, C.F.R., Congressional Record, committee reports and committee hearings.

In recent months the wider Internet availability of the Government Printing Office's electronic access service has meant that users from the surrounding community who come to the Law School are able to use the computer lab and Law Library PCs to connect to some current Federal documents via the Internet.

The Law Library is open 24 hours a day, every day of the year, and users from the community may use Law Library PCs with Internet access, provided the machines are not required for use by law students. When school is in session the law library generally is staffed from 8:00 a.m. until 11:00 p.m. In practice, there is usually sufficient computing capacity to meet the needs of all Law Library's users. Users often require assistance in using documents; they often require greater assistance in using documents delivered electronically.

Washington and Lee University is situated in a rural area with a relatively low concentration of population. The Law Library offers access to legal and associated Federal documentary publications for a public that spreads west of the Blue Ridge mountains to the West Virginia border forming a substantial section of south-west Virginia. We can offer no estimate of the numbers of community users in a year but south-west Virginia currently has no other major law library and the staff are aware of a demand on our reference service by users (particularly college students) from as far as Radford.

The Law Library staff considers that the Federal Depository Library Program operates satisfactorily except for a lack of timely distribution of microfiche.

Sincerely,

Sarah K. Wiant

Director of the Law Library and Professor of Law

SKW/bd

UNIVERSITY OF VIRGINIA LIBRARY

May 10, 1996

OFFICE OF THE LIBRARIAN ALDERMAN LIBRARY

Honorable John Warner Chairman Committee on Rules and Administration United States Senate Washington DC 20510-6325

Dear Senator Warner:

Thank you for affording me the opportunity to comment on the U.S. Government Printing Office's draft report, Study to Identify Measures Necessary for a Successful Transition to a More Electronic Federal Depository Library Program. Our library has a long and active tradition of providing free access to federal information, having participated in the Federal Depository Library Program since 1910. We have served as the federal regional library for the Commonwealth of Virginia since 1968. We have a dedicated, knowledgeable, and enthusiastic documents staff strongly committed to providing quality access to government information not only here at the University of Virginia but throughout the entire Commonwealth as well. From this background I offer the comments below in response to the specific issues raised in your letter.

Conversion to a largely electronic federal depository program will initially impact our library significantly less than many other libraries in the Commonwealth and throughout the country. Our situation as one of the premier research institutions in the nation led us to make a very early commitment to the general dissemination of data and information in electronic format. Our library now operates six electronic centers, two of which (Social Sciences and Geographic Information) are directly affiliated with our Government Information Section. In addition we also have invested considerable resources in providing public and staff computer workstations as well as staff training for our Government Information Section.

However, although the short-term impact of conversion on our library would be negligible, there are significant long term implications. It should be noted that our library is more an exception than the rule. The majority of Federal Depository Program libraries in Virginia and throughout the country are small and medium-sized academic and public libraries many of whom lack the expertise and especially the resources necessary to make a timely conversion to an electronic program, especially within the two-year time frame specified in the draft report. A more realistic timetable for many of these libraries would be five

Warner, Honorable John May 10, 1996 Page 2

years. The inability many of these libraries to participate fully in the Depository Program will likely redistribute the burden of providing free access to federal information to institutions such as ours, further taxing our often strained equipment and staff resources.

Our experience with users' reaction to federal information in electronic format has been for the most part quite good. Our clientele react very positively to the fact that electronic resources allow quick and accurate searching of large texts and data files for topics of interest to them. They react in an especially positive way to the timely availability of federal information online. The ability to have instant, same day access to such texts as the Federal Register, Congressional Record, public laws, Commerce Business Daily, and Presidential documents is of major importance to them.

Perhaps the greatest frustration faced by both our users and staff alike in accessing federal information online is that associated with the "user-computer interface." Accessing electronic information obviously requires more patience and openness to learning on the part of users than does flipping through printed pages. The growing use of personal computers by students and the public at large has helped to alleviate this problem to some extent. However, the wide range of, and often poorly conceived, retrieval software too frequently associated with government information in electronic format has frustrated many users to the point of ill-will and reluctant use.

Overall we feel that the Federal Depository Library Program as presently conceived and operated is working well. We especially applaud the U.S. Government Printing Office through its Library Program Service for its efforts to include the widest possible range of government information in all formats in its distribution program; its electronic initiatives, especially through the GPO ACCESS; its comprehensive cataloging of government information; its open communication policy with depository libraries; and its efforts to provide education and training opportunities for library staff through its Depository Library Conferences and Interagency Seminars.

Our greatest frustration with the program as it presently exists is that despite the substantial amounts of information provided through depository distribution, we still regularly receive requests for large amounts of government data not distributed through the program. For example this current fiscal year our library will spend in excess of \$25,000, not including staff time, to either acquire nondepository print government data or for the right to access it online. The draft report addresses this issue to some extent by acknowledging "...widespread interest in expanding the content of the program to make it more comprehensive, and a great deal of optimism that the rapid expansion of agency electronic publishing offers cost-effective options to do so." We also have grave concerns about what appears to be a growing trend toward the placing of copyright-like restrictions on online government data whereby we are

Warner, Honorable John May 10, 1996 Page 3

charged for the right to access the data, then restricted as to where and how we make it available to our users.

Another issue raised by the draft report and which we think is being inadequately addressed by the Federal government as a whole is the archiving and guaranteeing long term access to government information in electronic format. As presently structured, the system for dissemination of government electronic information is much too vulnerable to whim and circumstance; it is much too easy for online data to be available one day and simply disappear the next. As a major research library with a long term responsibility for providing future scholars with the raw materials of scholarship, we heartily endorse the concept set forth in the draft report: "To ensure permanent public access to official electronic Government information, all of the institutional program stakeholders (information producing agencies, GPC, depository libraries and NARA) must cooperate to establish appropriate arrangements for its continued accessibility." We encourage the creation of legal incentives, accessibility." the provision of adequate funding, and the fostering of a cooperative climate and partnerships on the part of Congress and the GPO to adequately ensure permanent access to authentic government information in electronic format.

As for data on the use of government information in our library we have no separate hard data on the use of government electronic data per se, but we do know that our electronic resources generally are very heavily used not only by our own local clientele, but also regionally and nationally via World Wide Web. Our Government Information Service desk does track user contacts during our peak usage periods and project that data to an annual estimate. For 1995 we estimate that total number of user contacts at our Government Information Service desk exceeded 27,000 transactions (actual estimate is 27,120). This does not include government information transactions at our Research and Information Desk where our staff handle many of the general public inquiries about government data. Nor does it address the approximately 25,000 per year circulation transactions of print government documents at our Circulation Desk.

Again, I express my appreciation for the opportunity to comment on the draft GPO report. If I can provide you or your Committee's staff with additional information, please do not hesitate to call on me.

Yours Sincerely,

Karin Wittenborg University Librarian

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JOHN WARNER, VRIGINIA, CHARMAN

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ROBERT DOLE XANISAS
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GRAYSON WINTERLING, STAFF DIRECTOR
KENNIE L. GILL, DEMOCRATIC STAFF DIRECTOR AND CHIEF COURSEL

APPENDIX A2

United States Senate

COMMITTEE ON RULES AND ADMINISTRATION WASHINGTON, DC 20510-6325

June 4, 1996

The Honorable Mark O. Hatfield Chairman Senate Committee on Appropriations Washington, D.C. 20510-6025

Dear Mr. Chairman:

We applaud the Appropriations Committee's intent to review the ability of the public to access government information electronically; clearly we agree electronic options are additional tools to benefit the American public.

The draft GPO Study on a Successful Transition to a More Electronic Federal Depository Library raises serious questions about not whether, but how best to complete this transition in the most cost-effective and user-friendly manner. As the authorizing committee with jurisdiction over the relevant sections of Title 44, we are holding a series of hearings to determine how electronic information production, dissemination, retrieval and storage can effectively meet our mutual goals of increased electronic use without sacrificing the public's ability to access that information. Enclosed please find a copy of our comments to GPO Public Printer Michael DiMario regarding the above-mentioned study.

Hearings on Title 44/GPO are scheduled June 18 and 19, the first two hearings on Public Access to Government Information in the 21st Century. We intend to hold several more hearings to receive the input of involved and impacted publics with an interest in the life cycle of government information, to include testimony on the structure of the Joint Committee on Printing, as well as numerous Member legislative proposals, in order to make recommendations on updating Title 44 later this year. We look forward to sharing our conclusions with you.

With appreciation for your consideration of our findings,

Sincerely,

Wendell Ford Ranking Member

John Warner Chairman

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ÉAUNE O HATTELD OREGON
JESSE NELME, NORTH-CANOUNA
DREAT DOZ. KAJSAS
TEO STEVES, AJASAS
MITCH MCONNELL, KENTOCY
TALO COCHAN, MISSISSIPH
CHRISTOPHER J DODO. SANTORUM, PENNSYLVANIA NICKLES, DKLAHOMA

GRAYSON WINTERLING, STAFF DIRECTOR KENNIE L. GILL, DEMOCRATIC STAFF DIRECTOR AND CHIEF COUNSEL

United States Senate

COMMITTEE ON RULES AND ADMINISTRATION WASHINGTON, DC 20510-6325

June 4, 1996

The Honorable Robert C. Byrd Ranking Member Senate Committee on Appropriations Washington, D.C. 20510-6025

Dear Senator Byrd:

We applaud the Appropriations Committee's intent to review the ability of the public to access government information electronically; clearly we agree electronic options are additional tools to benefit the American public.

The draft GPO Study on a Successful Transition to a More Electronic Federal Depository Library raises serious questions about not whether, but how best to complete this transition in the most cost-effective and user-friendly manner. As the authorizing committee with jurisdiction over the relevant sections of Title 44, we are holding a series of hearings to determine how electronic information production, dissemination, retrieval and storage can effectively meet our mutual goals of increased electronic use without sacrificing the public's ability to access that information. Enclosed please find a copy of our comments to GPO Public Printer Michael DiMario regarding the above-mentioned study.

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With appreciation for your consideration of our findings,

Sincerely,

Ranking Member



P.O. Box 40041 Providence, RI 02940-0041

APPENDIX A3

Consortium of Rhode Island Academic and Research Libraries

Brown University
Bryant College
Community College of Rhode latand
Johnson & Weles University
Providence College

Providence Public Library
Rhode Island College
Rhode Island Historical Society
Rhode Island School of Design
Rhode Island Stete Library

Roger Williams University
Roger Williams University School of Lav
Salva Regins University
United States Navel Wer College
University of Rhode Island

19 March 1996

The Honorable Claiborne Pell U.S. Senate SR-335 Russell Senate Office Building Washington, DC 20510

Dear Senator Pell:

We are writing to express the concerns of the Federal Depository librarians in Rhode Island about the proposed changes to the Federal Depository Library Program (FDLP). As co-chairs of the Government Documents Committee of the Consortium of Rhode Island Academic and Research Libraries (CRIARL), we ask that you support full funding for the Government Printing Office (GPO) for fiscal year 1997.

Rhode Islanders currently take advantage of Federal government information through the services of the state's twelve Federal Depository libraries. These libraries cooperate with GPO to provide the public with current and historical collections of government publications. At Congress' direction, GPO is currently undertaking a study to identify measures necessary for a successful transition to a more electronic program. As part of this study, GPO recently issued a proposed Transition Plan that would replace the existing Federal Depository Library Program with a predominantly electronic system by 1998.

The CRIARL Government Documents Committee fully supports GPO's overall goal to move increasingly toward electronic dissemination to enhance public access to government information. However, we are extremely concerned with some of the following basic problems (see attached major concerns):

- Impractical Timetable
- Increased costs to Libraries and the Public
- · Rapidly Changing Technologies
- Inconsistent standards
- Frustration Accessing Electronic Government Information Sources
- Integrity of Electronic Documents
- · Archiving Electronic Files for the Future
- Utilization of Appropriate Formats

The Government Printing Office and depository libraries have made great strides in recent years in integrating electronic technologies into the delivery and services for government information. All twelve depository libraries in Rhode Island, for example, have computer workstations with CD-ROM readers for the public to use. And creative partnerships -- like the one in Rhode Island between GPO and the Ocean State Free Net to provide local dial-up access to the GPO Access online system -- further expand the reach of some

electronic sources to every home computer in the state. But the transition to a more electronic system, if it is to be successful, must be managed carefully and thoughtfully, with stable funding over a reasonable time period, that will allow GPO, libraries, and the public to plan for and take full advantage of the new and developing technologies.

We ask you to support -- and to urge your colleagues in Congress to support -- the thoughtful and deliberate evolution of the Federal Depository Library Program to a more electronic system over an initial transition period of 5-7 years, and to fully fund GPO during fiscal year 1997 and throughout the transition period. The public, the libraries, and the Federal government are not prepared for a precipitous shift to electronics. Important sources could be lost unless the necessary mechanisms are in place to ensure the preservation and long-term access to electronic government information. Further, any potential long-term savings will not be realized if the technological infrastructure and standards do not exist to support such a system. Finally, the successful move toward a more electronic FDLP must be careful to consider users as well as technology and costs.

Thank you for your long-standing support of libraries and the Federal Depository Library Program.

Sincerely,

Elizabetha Goncalo Love Ha Silvia

Elizabeth Goncalo Loretta Silvia

Co-chairs, Government Documents Committee, Consortium of Rhode Island Academic and Research Libraries

cc: Chairman, House Appropriations Committee

Chairman, House Legislative Branch Subcommittee

Chairman, House Oversight Committee

Chairman, Senate Appropriations Committee

Chairman, Senate Legislative Branch Subcommittee

Chairman, Senate Rules and Administration Committee

Public Printer of the United States

MAJOR CONCERNS

The timetable outlined in the transition plan will make it exceedingly difficult for libraries and users to meet this goal, and the effect of the proposed plan will be a detriment to public access to government information in the near and long-term future.

The rapid pace proposed for this transition is apparently based on Congress' intent to reduce the costs of dissemination. While this is a worthy aim, it should not undermine the fundamental principle of public access to government information. Further, citizens are hardly served if these costs are not really eliminated, but instead, simply shifted to libraries and users. There are no overall cost savings —— for users, libraries, or the environment—— if each library or user will have to be responsible, for example, for printing on site their own copies of lengthy congressional hearings or other government documents (since the electronic file was all that was available from the government). Indeed, there is no empirical data at this time to suggest that a predominantly electronic FDLP would result in cost-savings to the program. And the practical experience of most libraries is that, at least in the short-to-medium term, the costs of electronic technologies are certainly no less, and oftentimes more, than the costs of servicing traditional collections and formats.

Libraries in Rhode Island and elsewhere are struggling to keep pace with rapidly changing technologies, and few are prepared at this time for so dramatic a shift to electronic dissemination of such a large body of information. Even those libraries that are directly connected to the Internet could not cope with the prospect of receiving the majority of Federal information only in electronic format. Furthermore, there are few agreed-upon and consistent standards for Federal publishing agencies to utilize at this time when developing electronic publications. This greatly increases the training costs for libraries and the public, and adds to the public's frustration with accessing some electronic government information sources. And, while electronic access certainly has the potential to expand the reach of information to beyond the walls of the library, few households are equipped with this capability at present, and few citizens are trained and able to take advantage of these services. The immediate benefit for a few, well-off users would come at the great expense and erosion of access for the general public at large.

While electronic technologies have tremendous potential for increasing access for some types of data, these advantages do not universally apply to all government information sources. Paper continues to be a viable and, in many cases, preferred format for communicating government information to the general public. We urge you and your congressional colleagues to balance dissemination costs with considerations for the information content and intended use and audience of a publication when determining the most appropriate formats for producing and disseminating government publications.

Further, we have serious concerns about the government's ability at this time to archive these electronic files for future access. Electronic information by its nature is transient -- what's accessible at one computer site today can be gone tomorrow. Without the appropriate mechanisms to track the location of these file, and the long-term commitment and funding to archive and preserve them, the citizens of Rhode Island will be denied access to information that they may require in the future.

APPENDIX A4



United States Government Printing Office Washington, DC 20401

OFFICE OF THE PUBLIC PRINTER

August 22, 1996

The Honorable John W. Warner Chairman Committee on Rules and Administration U.S. Senate Room 305, Russell Office Building Washington, DC 20510

Dear Mr. Chairman:

This letter transmits suggestions for changes to chapter 19 of Title 44, U.S.C., which governs the operation of the Federal Depositor / Library Program (FDLP). They include suggestions for changes to sections 1901 and 1902 as well as proposed changes which would facilitate the transition to a more electronic FDLP. They also include suggestions to modernize and simplify the language of chapter 19.

The suggested changes result primarily from the Study to Identify Measures Necessary for a Successful Transition to a More Electronic Federal Depository Library Program (GPO: June 1996). The study included the task of an "evaluation of current laws governing the FDLP and recommendation of legislative changes." Working on this task were GPO staff along with representatives of the American Library Association (ALA), the American Association of Law Libraries (AALL), the Association of Research Libraries (ARL), and the Information Industry Association (IIA), although all members of the study group, including the Office of Management and Budget, were invited to participate. After publishing the final study report, we informally discussed and reviewed the suggestions for changes with Government information groups of the ALA, the AALL, members of the depository library community, and GPO's Depository Library Council. The enclosed changes reflect that informal consultative process.

Sincerely,

MICHAEL F. DIMARIO

had & Di Mario

Public Printer

Enclosure

cc: The Honorable Wendell H. Ford
Ranking Member
Committee on Rules and Administration
U.S. Senate

Changes to Chapters 17 and 19, Title 44

Changes to chapters 17 and 19, Title 44, <u>U.S. Code</u> would facilitate the transition to a more electronic Federal Depository Library Program (FDLP). The changes discussed below support Part III, Principles for Federal Government Information, and Part IV, Mission and Goals for the Federal Depository Library Program, of the <u>Study To Identify Measures Necessary for a Successful Transition to a More Electronic Federal Depository Library Program.</u>

TITLE 44-PUBLIC PRINTING AND DOCUMENTS

CHAPTER 19— DEPOSITORY LIBRARY PROGRAM- PUBLIC ACCESS TO GOVERNMENT INFORMATION THROUGH LIBRARIES: THE FEDERAL INFORMATION DISSEMINATION AND ACCESS PROGRAM

Analysis:

The program should be redescribed to reflect the electronic information environment and the key goal of public access. "Depository" is strongly linked to the old paradigm of shipping physical products, and does not adequately express the goal of public access to Government information. To more fully express this aspect of the program, and to emphasize the affirmative role of all agencies to make their information available, the title of chapter 19 and the program should be changed.

This change would be supported by new definitions of the "Federal Information Dissemination and Access Program" and "program library" in the proposed revisions to section 1901.

Sec. 1901. Definitions of Government publication

The "Federal Information Dissemination and Access Program" is a nationwide geographicallydispersed system, administered by the Superintendent of Documents, consisting of program libraries acting in partnership with the United States Government, established within this chapter for the purpose of enabling the general public to have local capability for timely, current public access and permanent, future public access to Federal Government information at no cast.

"Government publication information," as used in this chapter, means informational matter which is published as an individual document that information, regardless of form or format, which is created or compiled by employees of a component of the Government, or at Government expense, or as required by law, except that which is required for official use only, is for strictly administrative or operational purposes having no public interest or educational value, or is classified for reasons of national security.

"Component of the Government; Component" as used in this chapter, means any Federal Government department, military department, independent regulatory agency, Government corporation, Government controlled corporation, or other establishment in the executive, legislative, or judicial branch.

"Government information product," as used in this chapter, means a Government publication or other discrete set of Government information, either conveyed in a tangible physical format including electronic media, or disseminated via a Government electronic information service.

"Tangible Government information product," as used in this chapter, means any Government information product that can be distributed to program libraries in a physical format.

"Government electronic information service," as used in this chapter, means the system or method by which a component of the Government or its authorized agent disseminates Government information products to the public via a telecommunications network or successor technology.

"Dissemination," as used in this chapter, means the act of distributing tangible Government information products to program libraries, or the act of making Government information products accessible to program libraries and the general public via a Government electronic information service.

"Access," as used in this chapter, means either the use of tangible Government information products which have been disseminated to program libraries, or utilizing a Government information product disseminated via a Government electronic information service.

"Program library," as used in this chapter, means a library designated under the provisions of this chapter which maintains tangible Government information products for use by the general public, offers professional assistance in locating and using Government information, and provides local capability for the general public to access Government electronic information services. These libraries shall be known as "Federal Information Access Libraries."

"Service area," as used in this chapter, means either the geographical area of the several program libraries served by a given regional program library, or the geographical area of the user community of a given program library.

"Permanent public access," as used in this chapter, means that Government information products within the scope of the program remain available for current and future, no fee public access through the program.

Analysis of this section:

Electronic Federal Government information must be included in the program, in order to provide the broadest possible public access. The current definition of "Government publication" in section 1901 of Title 44 needs to explicitly include electronic information. The purpose of this language is to clarify that the scope of the chapter includes information in electronic formats, whether published as a tangible product or made accessible via an electronic online service. We have intentionally avoided the term "public information" used in section 3502 of P.L. 104-13, the Paperwork Reduction Act of 1995, which is defined as "any information, regardless of form or format, that an agency discloses, disseminates, or makes available to the public." This term can be interpreted as restrictive, excluding many Government information products which are developed for internal use but have significant public interest and educational value. Instead, we have used the term "Government information," establishing that products included in the program should be reflective of the public's broader interest as expressed in section 1902 rather than being limited to just those products developed specifically for dissemination to the public.

We have also increased the comprehensiveness of the definition to eliminate the effect of certain publishing arrangements taking the information out of the public domain.

Sec. 1902. Availability of Government publications information products to be made available through Superintendent of Documents; lists of publications not ordered from Government Printing Office responsibility of components of the Government to notify the Superintendent of Documents; responsibility of components to provide electronic data

Notwithstanding other provisions of the law, Government publications information products, except those determined by their issuing components to be required for official use only or for strictly administrative or operational purposes which have no public interest or educational value and publications information classified for reasons of national security, shall be made available to depository program libraries through the facilities of the Superintendent of Documents for public information. The Superintendent of Documents shall make tangible products available through distribution to program libraries and shall ensure program libraries and general public access to Government information products available via Government electronic information services. Each component of the Government shall furnish the Superintendent of Documents a list of such publications it issued during the previous month, that were obtained from sources other than the Government Printing Office.

Components of the Government shall immediately notify the Superintendent of Documents of their intent to initiate any Government information product and shall notify the Superintendent of Documents at such time as they substantially modify; change media, means of access, or physical format; or terminate a product.

Upon request of the Superintendent of Documents, components of the Government shall provide the Superintendent of Documents with electronic source data files of any Government information products falling within the scope of this section.

Analysis of this section:

The "notwithstanding other provisions of law" language was added to clarify that other statutes which may require public dissemination or cost-recovery do not relieve an agency of its obligations under chapter 19.

The decentralized characteristics of the electronic information environment make it impractical for any single organization to obtain all electronic information for access and preservation, nor is such an approach cost-effective. In an electronic environment, the Superintendent of Documents can make information available to program libraries and the

public in various ways. The centralized acquisition and distribution of tangible products would continue, as this activity has significant value to the libraries and the public which they serve. Access to remotely accessible electronic Government information products, however, will be provided from a variety of Government electronic information services, including the *GPO Access* services, services operated by the originating components or other entities acting as their agents, or by secondary disseminators. We believe the concept of directing users and providing access to electronic information products at non-GPO sites ("pointing") is consistent with the requirement in P.L. 103-40 to maintain an electronic directory of Federal electronic information.

We propose eliminating the requirement on components of the Government to "furnish ... a list of such publications it issued during the previous month." Even if this requirement were adhered to, the notification would be too late for the Superintendent of Documents to take timely action to acquire the products for the program.

In order for the program to function effectively in a decentralized electronic environment, timely notice is required so that Superintendent of Documents personnel can obtain and/or convert data, and provide complete and accurate locator services. A requirement is needed that publishing components notify the Superintendent of Documents at such time as they initiate, substantially modify, or terminate Government information products. Information provided in the context of the notification process should enable the Superintendent of Documents to provide cataloging and locator services for these products. (See proposed new section 1917.)

As nearly all Government information products exist in electronic form at some point in their life cycle, we believe that a cost-effective method of incorporating additional electronic information products into the program is to obtain that source data from the originating component of the Government.

Sec. 1903. Distribution of tangible products to program libraries publications to depositories; notice to Government components; cost of printing and binding replication of tangible products; access to information products via electronic information services; availability of products from self-sustaining components of Government

(a) Upon request of the Superintendent of Documents, components of the Government

ordering the printing of publications replication of tangible products shall either increase or decrease the number of copies of publications furnished for distribution to designated depository program libraries and State libraries so that the number of copies delivered to the Superintendent of Documents is equal to the number of libraries on the list sufficient to provide copies to those program libraries which select the product. The number thus delivered may not be restricted by any statutory limitation in force on August 9, 1962. Copies of publications furnished the Superintendent of Documents for distribution to designated depository program libraries shall include—

the journals of the Senate and House of Representatives;

all publications, not confidential in character, printed upon the requisition of a congressional committee;

Senate and House public bills and resolutions; and

reports on private bills, concurrent or simple resolutions.

; but not so called cooperative publications which must necessarily be sold in order to be self-sustaining.

(b) The Superintendent of Documents shall currently inform the components of the Government ordering printing of publications as to the number of copies of their publications required for distribution to depository libraries as to the requirements of the program for tangible Government information products. The cost of printing and binding those publications distributed replicating paper and microform publications, or tangible electronic products, made available to depository program libraries obtained elsewhere than from the Government Printing Office shall be borne by components of the Government responsible for their issuance; those requisitioned from the Government Printing Office shall be charged to appropriations provided the Superintendent of Documents for that purpose.

Analysis of paragraphs (a) and (b):

Both of these paragraphs pertain solely to tangible Government information products. The language in both paragraphs has been updated to change the emphasis from "printing of publications" to include the replication of any type of product, i.e. CD-ROMs.

The exclusion from the program of "so-called cooperative publications" has, at times, resulted in substantial information of "public interest or educational value" being kept out of the program, in spite of significant investment of public funds in preparation of the product. Eliminating this exclusion will reduce the number of "fugitive" titles.

(c) Access to Government information products available via Government electronic information services will be available at no cost to program libraries. The cost of providing program libraries with access to Government electronic information services offered by components of the Government other than the Government Printing Office shall be borne by the component of the Government responsible for issuance of the Government information products available on the service or by the component of Government responsible for operation of the service; the cost of services requisitioned by the Superintendent of Documents from the Government Printing Office shall be charged to the appropriations provided to the Superintendent for that purpose.

Analysis of paragraph (c):

The general public, through the program, should have no-fee access to all Government information meeting program requirements. This paragraph establishes that the cost responsibility for providing access to electronic services is analogous to that for tangible products.

It also establishes organizational responsibility for the costs of program library access to Government electronic information services. We believe that the agency which originates the product content should bear the costs of a basic level (defined in para. (d)) of public access through the program; however, the language permits some flexibility for delegating this responsibility to the service provider, either administratively or through a contractual arrangement.

(d) Components of the Government which are required by statute to charge for access to any products available via a Government electronic information service operated under their authority shall establish administrative provisions with the Superintendent of Documents whereby each program library which requests access to the service will have access at no cost for at least a single simultaneous user. If additional access for program libraries is requisitioned by the Superintendent of Documents, the component of the Government shall make such access available and shall be reimbursed by the Superintendent at the incremental cost of dissemination.

Analysis of paragraph (d):

This paragraph establishes the basic level of service obligation for the issuing components of the Government. Beyond that basic minimal level of service to program libraries, it also permits the Superintendent of Documents to requisition additional access at a reasonable cost. The costs charged to the Superintendent of Documents should be limited to those associated with providing dissemination and user support services to program libraries.

(e) If a component of Government which is required by statute to charge for any Government information products can demonstrate to the satisfaction of the Superintendent of Documents that distribution of, or access to, such products for program libraries will seriously affect the ability of the organization to fulfill its statutory mandate to be self-sustaining, and appropriations or other resources are not adequate to permit the organization to meet its program obligations, the Superintendent may requisition such products and reimburse the component of Government at the incremental cost of dissemination, whether the products are produced or made available by the Government Printing Office or elsewhere. Alternatively, components of the Government will, upon request, provide to the Superintendent of Documents a single copy of such Government information products for replication and dissemination as a tangible Government information product or will provide the electronic source file to allow for dissemination via an alternative Government electronic information service if that is more cost-effective for the program.

Analysis of paragraph (e):

The purpose of this paragraph is to establish an exception mechanism for the general cases described in paragraphs (a), (b), and (d). Under this paragraph, when it can be shown that making such access or copies available to the program would harm the economic viability of the product or service, the Superintendent of Documents has the option to reimburse an agency for access to an electronic service, to reimburse an agency for copies of a tangible product, to obtain a single copy and republish it for the program, or to obtain the electronic source file. It also eliminates agency discretion to declare that products available via an electronic information service must be sold to recover costs, by establishing that charging for such products must be required by statute.

Additional note concerning this section:

Historically there have been cases where Government information products have not been

included in the program because they were not produced or procured through the Government Printing Office. This problem can be addressed under the plenary authority of Sec. 1914, whereby the Public Printer, acting through the Superintendent of Documents, can use appropriated funds to obtain, on an incremental cost basis, copies of tangible products, including CD-ROMs, which are produced or procured elsewhere than through GPO. This approach will provide a practical remedy to many fugitive documents situations.

Sec. 1904. Classified List of Government publications information products-for-selection-by depositories available to program libraries

The Superintendent of Documents shall eurrently issue a current, classified list of categories of Government publications information products, including -in-suitable form, containing annotations of contents and listed-by item identification numbers, to facilitate the selection of or access to only those publications products needed by depository program libraries. The selected publications products shall be distributed available to depository program libraries in accordance with regulations of the Superintendent of Documents, as long as they the program libraries fulfill the conditions provided by law.

Analysis of this section:

The intent of this section is to cause the preparation of a data base which describes, using suitable data elements, the types of Government information products available through the program. Where needed, language was changed to conform with new language defined in Sec. 1901.

Sec. 1905. Distribution to depositories; Designation of additional program libraries; justification; authorization for certain designations

(a) The Government publications selected from lists prepared by the Superintendent of Documents, and when requested from him, shall be distributed Government information products made available by the Superintendent of Documents may be selected or accessed by to depository program libraries specifically designated by law and to libraries designated by Senators, Representatives, and the Resident Commissioner from Puerto Rico, by the Commissioner Mayor of the District of Columbia, and by the Governors of Guam, American Samoa, the Commonwealth of the Northern Marianas, and the Virgin Islands, respectively.

Additional libraries within areas served by Representatives or the Resident Commissioner from Puerto Rico may be designated by them to receive Government publications information to the extent that the total number of libraries designated by them does not exceed two within each area. Not more than two additional libraries within a State may be designated by each Senator from the State. Before an additional library within a State, congressional district or the Commonwealth of Puerto Rico is designated as a depository for Government publications program library, the head of that library shall furnish his or her Senator, Representative, or the Resident Commissioner from Puerto Rico, as the case may be, with justification of the necessity for the additional designation. The justification, which shall also include a certification as to the need for the additional depository program library designation, shall be signed by the head of every existing depository program library within the congressional district or the Commonwealth of Puerto Rico or by the head of the library authority of the State or the Commonwealth of Puerto Rico, within which the additional depository program library is to be located. The justification for additional depository program library designations shall be transmitted to the Superintendent of Documents by the Senator, Representative, or the Resident Commissioner from Puerto Rico, as the case may be. The Commissioner Mayor of the District of Columbia may designate two depository program libraries in the District of Columbia, the Governor of Guam, the Governor of the Commonwealth of the Northern Marianas, and the Governor of American Samoa may each designate one depository program library in Guam, the Commonwealth of the Northern Marianas, and American Samoa, respectively, and the Governor of the Virgin Islands may designate one depository program library on the island of Saint Thomas and one on the island of Saint Croix.

Analysis of this section:

The revised section brings together all of the different means by which a library can become a program library, except for the designation of regional status, which appears in section 1912.

In the first sentence the language is updated, while still maintaining the ability of program libraries to select the information products which meet the needs of their local constituencies.

Pub. L. 101-219, title II, Sec. 202, Dec. 12, 1989, 103 Stat. 1874, provided that: "The Northern Marianas College is hereby constituted a depository to receive Government publications, and the Superintendent of Documents shall supply to the Northern Marianas

College one copy of each such publication in the same form as supplied to other designated depositories." In this and following sections, new language has been inserted relative to the Commonwealth of the Northern Marianas. The previous specific language designating the Northern Marianas College is unnecessary now that the Governor of the Commonwealth of the Northern Marianas can designate a program library.

In this and following sections, the term "Commissioner" of the District of Columbia has been replaced by "Mayor" as established by law.

(b) Sec. 1906. Land-grant colleges and State libraries constituted depositories designated program libraries

Land-grant colleges and State libraries are designated constituted depositories program libraries to receive Government publications information subject to the depository program laws.

Analysis of paragraph (b):

This section specifies the designation of State libraries as program libraries. This was formerly included in section 1903.

(c) Sec. 1907. Libraries of executive departments, service academies, and independent agencies constituted depositories designated program libraries; certifications of need; disposal of unwanted publications

The libraries of the executive departments, of the United States Military Academy, of the United States Naval Academy, of the United States Air Force Academy, of the United States Coast Guard Academy, and of the United States Merchant Marine Academy are designated depositories of Government publications as program libraries. A depository program library within each independent agency may be designated upon certification of need by the head of the independent agency to the Superintendent of Documents. Additional depository program libraries within executive departments and independent agencies may be designated to receive Government publications information products to the extent that the number so designated does not exceed the number of major bureaus or divisions of the departments and independent

agencies. These designations may be made only after certification by the head of each executive department or independent agency to the Superintendent of Documents as to the justifiable need for additional depository program libraries. Depository libraries within executive departments and independent agencies may dispose of unwanted Government publications after first offering them to the Library of Congress and the Archivist of the United States.

Analysis of paragraph (c):

The disposal language was removed from this section so that all program libraries would be bound by the general disposal requirements expressed in sections 1911 and 1912.

Other language was changed to conform with new language defined in section 1901.

(d) Sec. 1908. American Antiquarian Society to receive certain publications Government information products

One copy of the public journals of the Senate and of the House of Representatives, and of the documents published under the orders of the Senate and House of Representatives, respectively, shall be transmitted to the Executive of the Commonwealth of Massachusetts for the use and benefit of the American Antiquarian Society of the Commonwealth.

Analysis of paragraph (d):

Changed to conform with new language defined in section 1901.

(e) Sec. 1915. Highest State appellate court libraries as depository program libraries

Upon the request of the highest appellate court of a State, the Public Printer is authorized to designate the library of that court as a depository program library. The provisions of section 1911 of this title shall not apply to any library so designated.

Analysis of paragraph (e):

Changed to conform with new language defined in section 1901.

(f) Sec.-1916. Designation of libraries of accredited law schools as depository program libraries

- (a) Upon the request of any accredited law school, the Public Printer shall designate the library of such law school as a depository program library. The Public Printer may not make such designation unless he the Superintendent of Documents determines that the library involved meets the requirements of this chapter, other than those requirements of the first undesignated paragraph of section 1909 of this title which relate to the location of such library.
- (b) For purposes of this section, the term "accredited law school" means any law school which is accredited by a nationally recognized accrediting agency or association approved by the Commissioner of Education for such purpose or accredited by the highest appellate court of the State in which the law school is located.

Analysis of paragraph (f):

Changed to conform with new language defined in section 1901. The reference to Commissioner of Education is deleted as the position no longer exists.

Sec. 1906. [Reserved] Now Sec. 1905 (b)

Sec. 1907. [Reserved] Now Sec. 1905 (c)

Sec. 1908. [Reserved] Now Sec. 1905 (d)

Sec. 1909. Requirements of depository *program* libraries; reports on conditions; investigations; termination; replacement

Only a library able to provide custody and service for depository materials properly maintain and provide public access to Government information and located in an area where it can best serve the public need, and within an area not already adequately served by existing depository program libraries may be designated by Senators, Representatives, the Resident Commissioner

from Puerto Rico, the Commissioner Mayor of the District of Columbia, or the Governors of Guam, American Samoa, the Commonwealth of the Northern Marianas, or the Virgin Islands as a depository of Government publications program library. The designated depository program libraries shall report to the Superintendent of Documents at least every two years concerning their condition.

The Superintendent of Documents shall make firsthand investigation of conditions in program libraries for which need is indicated and include the results of investigations in his or her annual report. When he the Superintendent of Documents ascertains that the number of books in a depository library is below ten thousand, other than Government publications, or it has ceased to be maintained so as to be Government information products are not accessible to the public, or that the Government publications products which have been furnished the library have not been properly maintained, he the Superintendent of Documents shall delete the library from the list of depository program libraries if the library fails to correct the unsatisfactory conditions within six months. The Representative or the Resident Commissioner from Puerto Rico in whose area the library is located or the Senator who made the designation, or a successor of the Senator, and, in the case of a library in the District of Columbia, the Commissioner Mayor of the District of Columbia, and, in the case of a library in Guam, American Samoa, the Commonwealth of the Northern Marianas, or the Virgin Islands, the Governor, shall be notified and shall then be authorized to designate another library within the area served by him or her, which shall meet the conditions herein required, but which may not be in excess of the number of depository program libraries authorized by laws within the State, district, territory, or the Commonwealth of Puerto Rico, as the case may be.

Analysis of this section:

The commitment to provide public service should be emphasized as a responsibility of any program library. Program libraries are expected to provide no-fee public access to program information. For tangible products, all but the regional program libraries may select what products they wish to receive and add to their collections, based on their assessment of local needs. For purely electronic Government information, program libraries are expected to be able to provide no-fee public access to such information as they decide to support based upon their local collection development plans and the needs of the local constituencies. Program electronic information may be accessible from GPO Access, or the Superintendent of Documents locator may direct and link users to another component of the Government's

electronic information service.

Sec. 1910. Designations of replacement depositories program libraries; limitations on numbers; conditions

The designation of a library to replace a depository program library, other than a depository program library specifically designated by law, may be made only within the limitations on total numbers specified by section 1905 of this title, and only when the library to be replaced ceases to exist, or when the library voluntarily relinquishes its depository program library status, or when the Superintendent of Documents determines that it no longer fulfills the conditions provided by law for depository program libraries.

Analysis of this section:

Changed to conform with new language defined in section 1901.

Sec. 1911. Provision of Government information products to program libraries; free use of Government publications in depositories information in program libraries; disposal of unwanted publications Government information products

The Superintendent of Documents shall disseminate tangible Government information products to program libraries at no cost to the libraries and shall ensure that program libraries have access to Government information products available via Government electronic information services at no cost.

Depository Program libraries shall make Government publications information products received or accessed through the program available for the free use of the general public., and may dispose of them after retention for five years under section 1912 of this title, if the depository library is served by a regional depository library. Depository libraries not served by a regional depository libraries themselves, shall retain Government publications permanently, in either printed form or in microfacsimile form, except superseded publications or those issued later in bound form which may be discarded All tangible Government information products received by program libraries through the program remain the property of the United States Government. Program libraries

may dispose of Government information products only as authorized by the Superintendent of Documents.

Analysis of this section:

The retention requirements on both regional and selective program libraries need to be clarified and updated. For selective program libraries, this should be accomplished by removing the specific five-year retention requirement from the statute, and allowing libraries to dispose of Government information as authorized under guidelines to be issued by the Superintendent of Documents.

Sec. 1912. Regional depositories program libraries; designation; functions; disposal of publications; permanent public access to Government information

(a) Not more than two depository four program libraries in each State and two program libraries in the Commonwealth of Puerto Rico may be designated as regional depositories program libraries, and shall receive from the Superintendent of Documents copies of or access to all new and revised Government publications information products authorized for distribution to depository dissemination to program libraries. Designation of regional depository program libraries may be made by a Senator or the Resident Commissioner from Puerto Rico within the areas served by them, after approval by consultation with the head of the library authority of the State or the Commonwealth of Puerto Rico, as the case may be, who shall first ascertain from the head of the library to be so designated that the library will; in addition to fulfilling the requirements for depository libraries, retain at least one copy of all Government publications either in printed or microfacsimile form (except those authorized to be discarded by the Superintendent of Documents); and fulfill the requirements of a regional program library. Within the region served, a regional program library will provide or coordinate the provision of all program-related activities in the service area, including interlibrary loan, reference service, and assistance for depository program libraries in the disposal of unwanted Government publications as authorized by the Superintendent of Documents. The agreement to function as a regional depository program library shall be transmitted to the Superintendent of Documents by the Senator or the Resident Commissioner from Puerto Rico when the designation is made.

The libraries designated as regional depositories may permit depository libraries, within the

areas served by them, to dispose of Government publications which they have retained for five years after first offering them to other depository libraries within their area, then to other libraries.

- (b) The Superintendent of Documents, in consultation with the State library authority, and the affected program libraries in the service area, may temporarily confer regional program library status upon an existing program library or group of program libraries, in order to ensure the continued availability of regional program library services within a defined service area, or to enhance regional program library services in a service area determined by the Superintendent of Documents to be under served. A temporary conferral of regional status may continue in effect pending designation as a regional program library in accordance with requirements of paragraph (a) of this section.
- (c) Regional program libraries shall permanently maintain for public use at least one copy of all Government information products originally distributed either in printed, microform, or tangible electronic form, except those authorized to be discarded by the Superintendent of Documents.
- (d) The Superintendent of Documents will coordinate with publishing components, the National Archives and Records Administration, and with regional and other program libraries to establish a system whereby Government information products available via Government electronic information services will be maintained permanently for program library and general public access.

Analysis of this section:

The changes in this section provide for a new role for regional program libraries which is critical to the successful transition to a more electronic program.

In paragraph (a), the maximum number of regional program libraries has been raised to four per State. The designation process has been changed to only require consultation of the State library authority, rather than approval. The basic responsibilities of regional program libraries are described.

In paragraph (b), the Superintendent of Documents is authorized to confer regional status (not to "designate"), in order to provide regional services to an area which is under served. This

action may only be taken when consultation with the State library authority and the program libraries in the area to be served determines that a need exists. The temporary conferral would continue in a pending status, until such time as the library or group of libraries is designated as a regional program library as authorized in paragraph (a).

Paragraph (c) means that a regional program library's responsibility for retaining Government information permanently is limited to copies of tangible products, e.g. books, maps, CD-ROMs, etc., and is not automatically extended to electronic files made accessible via a Government electronic information service. Instead, a regional program library could elect to participate in the development of a distributed system for permanently maintaining Government electronic information for no-fee public access.

Paragraph (d) is vital to the success of an electronic program. Historically, the program, through the mechanism of the regionals, has guaranteed permanent preservation of and access to tangible Government information products. With respect to purely electronic Government information, there is no parallel mechanism to ensure that this information is maintained for permanent public access. Most depository librarians and other program stakeholders are concerned about preserving electronic Government information for permanent public access. This language would authorize the Superintendent of Documents to coordinate the development of a distributed system including the publishing components, GPO, the National Archives and Records Administration (NARA), and program libraries which elect to participate for such purposes.

Sec. 1913. [Reserved] Appropriations for supplying depository libraries; restriction

Appropriations available for the Office of Superintendent of Documents may not be used to supply depository libraries documents, books, or other printed matter not requested by them, and their requests shall be subject to approval by the Superintendent of Documents.

Analysis of this section:

This section is no longer relevant to the administration of the program.

Sec. 1914. Implementation of depository library program Federal Information Dissemination

and Access Program by Public Printer

The Public Printer, with the approval of the Joint Committee on Printing, as provided by section 103 of this title, may use any measures he *or she* considers necessary for the economical and practical implementation of this chapter.

Analysis of this section:

Changed to conform with new language defined in section 1901.

Sec. 1915. [Reserved] Now Sec. 1905 (e)

Sec. 1916. [Reserved] Now Sec. 1905 (f)

[Proposed New] Sec. 1917. Cataloging and locator services

The Superintendent of Documents shall provide cataloging and locator services which will direct program libraries and the general public to Government information products.

This will include creation of a comprehensive and timely catalog of Government information products which will be accessible to program libraries and the general public. The Public Printer, and the head of each component of the Government shall immediately deliver to the Superintendent of Documents two copies of every tangible Government information product falling within the scope of this chapter. When a component of the Government makes an information product available only via a Government electronic information service, the component shall immediately furnish information about those products to the Superintendent of Documents to enable the Superintendent to catalog, classify, and provide locator services. The Superintendent of Documents shall also prepare a consolidated index of Congressional documents.

Analysis of this section:

Incorporating electronic information into the program poses new challenges to users trying to find what they want. We need to coordinate the traditional Superintendent of Documents

cataloging activity, covering tangible products, with the developing suite of locator services directing users to information available from Government electronic information services.

The proposed new section would replace the existing sections 1710 and 1711, thereby eliminating the archaic specification for the number of printed catalogs.

CHAPTER 17-DISTRIBUTION AND SALE OF PUBLIC DOCUMENTS

Sec. 1710. Index of documents: number and distribution

The Superintendent of Documents, at the close of each regular session of Congress, shall prepare and publish a comprehensive index of public documents, upon a plan approved by the Joint Committee on Printing. The Public Printer shall, immediately upon its publication, deliver to him a copy of every document printed by the Government Printing Office. The head of each executive department, independent agency and establishment of the Government shall deliver to him a copy of every document issued or published by the department, bureau, or office not confidential in character. He shall also prepare and print in one volume a consolidated index of Congressional documents, and shall index single volumes of documents as the Joint Committee on Printing directs. Two thousand copies each of the comprehensive index and of the consolidated index shall be printed and bound in addition to the usual number, two hundred for the Senate, eight hundred for the House of Representatives and one thousand for distribution by the Superintendent of Documents.

Sec. 1711. Catalog of Covernment publications

On the first day of each month the Superintendent of Documents shall prepare a catalog of Government publications which shall show the documents printed during the preceding month, where obtainable, and the price. Two thousand copies of the catalog shall be printed in pamphlet form for distribution.

Analysis:

Sections 1710 and 1711 are replaced by proposed new section 1917.

APPENDIX A5

ATTACHMENT 1

April 26, 1996

Michael F. DiMario
Public Printer
U. S. Government Printing Office
732 N. Capitol Street, N.W.
Washington, D.C. 20401

Dear Mr. DiMario:

Thank you for this opportunity to respond to the recently released Report to the Congress: Study to Identify Measures Necessary for a Successful Transition to a More Electronic Federal Depository Library Program. We are responding to your request to submit written comments based on the oral remarks delivered at last week's joint meeting between members of the Working Group and the Advisors. Our comments today reflect the views of the members of the American Association of Law Libraries, the American Library Association, the Association of Research Libraries and the Special Libraries Association.

We are pleased that our associations, which represent more than 75,000 professionals in public, academic and special libraries throughout the country, were included in an advisory capacity during the lengthy study process. We commend the Government Printing Office for carrying out this legislatively-mandated study in a manner that considered the views of all three branches of the government, the library community and the private sector. It is especially noteworthy that members of the Working Group consisted of representatives from key agencies, including the National Archives and Records Administration (NARA), as well as many Congressional staff. It is hoped that one outcome of this collaborative approach will be improved understanding by all stakeholders of the serious issues of concern to libraries and other users of government information as the transition to a more electronic Federal Depository Library Program (FDLP) proceeds.

The FDLP has existed for one hundred and thirty-nine years as a very successful partnership program between the federal government, libraries and the public. This partnership must become even stronger in the future in order that the move to a more electronic program succeeds in reaching its goal: that is, the use of new technologies to expand the public's access to government information. We are pleased with the draft report's principles for federal government information, including the public's right to know and the government's responsibility to disseminate and provide broad and permanent access to its information. The well-articulated goals for an electronic FDLP, as noted in the draft report, must be realized to ensure that these important principles are achieved.

It is especially gratifying that many of the comments and concerns addressed in our previous joint letter to you regarding the Transition Plan were incorporated into the draft report. We do wish to offer some additional general comments on the draft study as there continue to be many areas of serious concern and importance to our members.

TIME FRAME: We are pleased that the draft report offers a more realistic and technologically feasible five to seven year time frame for the transition. The Transition Chronology proposed in the strategic plan better reflects the nation's technological infrastructure; the ability of agencies to create and provide access to information electronically; and the capabilities of libraries and users to effectively utilize such information. We will urge members of the Congressional authorizing and appropriating committees to support this more realistic time frame so that no barriers develop during the transitional years that would reduce the public's access to government information.

VIABILITY OF PRINT: We are pleased that the draft study recognizes the continued viability of a variety of formats, including print, to meet user needs. Format decisions should be based on usage, on the needs of the user community, and also on an agency's own dissemination requirements. While electronic information offers many advantages to paper, including timeliness, the ability to perform full-text searches and to manipulate data, certain types of materials will continue to be more efficiently created, disseminated and used in paper format.

Another problematic area regarding format decisions concerns fee-based products and services; namely, when an agency stops production of a title in print and moves it into a fee-based online service. One example of this is that depository libraries have in the past been able to select the FBIS and JPRS reports in print formats but these are now available online through paid subscriptions to the new World News Connection service of the National Technical Information Service (NTIS). It is planned that by the end of this year these important materials will be available only online while the printed and microfiche reports will be phased out. Valuable materials that have traditionally been available to depositories will no longer be included in the program since NTIS does not offer no-fee access to the World News Connection for depository libraries.

REDUNDANCY AND DIVERSITY: We are pleased that the draft study recognizes the principles of redundancy and diversity as articulated in NCLIS Principle #5: The Federal Government Should Ensure a Wide Diversity of Sources of Access, Private as Well as Governmental, to Public Information. Redundancy--in access, in formats, and in preservation-is both a necessity and an advantage. It provides a safeguard in case of overloaded systems, natural or man-made disasters, and even government shutdowns.

It is the government's affirmative obligation to ensure permanent access to the information that it produces. In the electronic environment, diverse and multiple partners are needed to promote and ensure access and preservation to government information long after its initial creation and dissemination. At the same time, a diversity of other public, private and notfor-profit sources is critical to ensuring that information remains available in useful and convenient ways.

CENTRALIZATION: We are pleased that the draft study recognizes the need for coordination and centralization to meet the goals of the FDLP. The program in a distributed electronic environment requires coordination to bring all participants together on issues of: 1) standardization and guidelines to ensure ease of locating information and guarantees of long-term access; 2) no-fee access to all government information, including fee-based products and services; and 3) usability. The complexities of these issues, particularly when many agencies are creating their own web sites, seems to be underestimated in the draft report. We commend GPO ACCESS as the legislatively-mandated centralized point of entry to electronic government information and the GPO locator service that assists the public in finding information across diverse government entities. Users must have timely and comprehensive finding aids to the growing vast universe of electronic government information, and centralized coordination is the most efficient means.

In addition to the above general comments on the draft study, we firmly believe that the study's goal of ensuring broader public access through electronic means will not be achieved unless the following concerns are addressed. While details of the draft study and the strategic plan remain to be worked out, these issues are critical to the transition's success. We hope also that the collaborative approach which GPO brought to the study itself will be maintained so that all interested and involved partners, including our associations, may continue to participate in the process.

MORE DATA NEEDED: We remain very concerned that although some useful information was gathered during the study process, neither the draft report, the models developed as part of the task force reports, nor the strategic plan are based on substantive data regarding costs to and capabilities of the government, libraries or the public to produce, access and use predominately electronic information. We believe that a technical scan is necessary and we will urge Congress to approve funding for the Technical Implementation Assistance which the report proposes.

NO-FEE ACCESS: We strongly support the study's first goal statement which ensures that the public has equitable, no-fee local access to government information through depository libraries. The draft study addresses this issue by suggesting that reimbursement to agencies for fee-based services could come from the Superintendent of Documents. There are no assurances, however, that there will be continued adequate funding to support the transition plan. Consequently, we are concerned that government information for which agencies must recover costs, particularly fee-based products and services, will become a new generation of fugitive information.

LONG-TERM PERMANENT ACCESS AND PRESERVATION: The draft report acknowledges that issues relating to long-term access and preservation of electronic government information require new relationships, indeed new strategies, between all stakeholders: GPO, agencies, NARA and participating libraries. Yet the draft fails to identify what these strategies may entail and the responsibilities for each partner. Long-term access and preservation issues are critical to the success of the FDLP; thus it is crucial that additional information regarding these activities be provided.

In addition, the draft report includes the recommendation that GPO will assume new responsibilities in the archival arena. Through many years of maintaining preservation and archival programs and collections, libraries have learned that these efforts require significant investments in technological solutions (e.g. deacidification and digitization pilots), personnel, and facilities. To be successful in undertaking new preservation and archiving responsibilities, GPO will need to provide additional detail regarding how such tasks will be accomplished. We suggest that a comprehensive study be undertaken among all partners to guarantee permanent long-term access and preservation. For example, it is not clear how and when GPO would support the "periodic review and refreshing of data to different mediums."

The issues of long-term permanent access and preservation are central to the transition to a more electronic program and thus we are especially concerned that the draft study offers no specifics, no data, no costs and no assurances. We reaffirm that these critical issues are the responsibility of the government and that they must be comprehensively addressed before the transition plan is implemented. The questions are very basic ones: first, how do we assure that electronic information will be available and usable next month, next year, or in twenty-five, fifty, or even a hundred years from now; and second, who will be responsible for ensuring long-term permanent access. In shifting long-term access from depository libraries to the government, as the draft study suggests, we must be assured that funding will remain adequate so that the government can refresh and migrate information. Otherwise, our national historical records will disappear into a black hole and the advantages of electronic information will be nullified.

COPYRIGHT-LIKE RESTRICTIONS: Principle 5 states that Government information created or compiled at Government expense or by Government employees as part of their official duties, regardless of the format in which it is published, is in the public domain. We strongly affirm this principle and note that some agencies are imposing copyright-like restrictions on electronic information. Worrisome patterns are already being proposed; for example, in the case of an agency restricting the downloading of information or its electronic re-transmission. This is an egregious barrier not only to the public's current and long term access to information but also to innovative and creative forces in the private sector to develop enhanced products and services. Further, regarding the proposal of the National Technical Information Service, libraries can neither restrict nor control users from placing electronic information on the Internet.

FEE-BASED PRODUCTS AND SERVICES: In order to fulfill the goals of an enhanced FDLP program, it is vital that materials not currently in the program, such as those created by self-supporting agencies who are by law required to recover their costs, be included. While the draft report proposes models through which these materials would enter the program, the key question is, of course, who is going to pay. GPO suggests that the Superintendent of Documents would reimburse agencies for the cost of including these products and services in the program. However, there are no guarantees that Congress would assure the necessary funding.

This issue addresses the troubling question of cost recovery and quasi-business corporations. Regarding the NTIS proposal for example, it is very troubling that libraries would be asked to become watchdogs to ensure that these electronic materials do not leak out into the public domain. We are also concerned that these or similar restrictions could potentially be used by agencies for access to services for which users have paid subscriptions. A strong affirmation

on redistribution without copyright-like restrictions for agency cost-recovery programs is imperative.

ROLE AND RESPONSIBILITIES OF PROGRAM LIBRARIES: We are concerned that since all depository libraries will soon be required to have Internet access and since, according to the plan, most government information will be available in electronic format, even the smallest program library will by default become a "regional" for electronic government information. Requiring all libraries to fulfill the regional depository libraries' statutory responsibilities of access and service will place undue burdens on selectives. In order to prevent this occurrence, more flexibility must be built into the program that allows libraries to provide access to electronic information in a manner they can accommodate. We must all acknowledge the tremendous value of program libraries and it is important to provide incentives for their continued participation in the program.

CONCLUSION:

These comments on the draft study and the strategic plan supplement our oral comments delivered at last week's joint Working Group and Advisors meeting. We will submit additional comments on the draft study and particularly on some of the specific Task Force Reports within the next few weeks. In particular, we are troubled that some proposed alternative models in several of the Task Force Reports may not be wholly in accord with the study's affirmed principles and goals and thus are very problematic to our members.

We are especially pleased to see the new draft language of the definitions in Chapter 19, Title 44 that acknowledge that electronic information is explicitly defined in the law as being a key component of the FDLP. It is crucial that Chapter 19 be amended to reflect these changes in definitions and the broader scope of the FDLP to assure that the goals for a more electronic program are achieved.

We believe that funding for the technology grants will provide seed money for small selective libraries which otherwise would be unable to provide access to electronic products and services to members of their local communities. One-time technology grants are a step in the right direction although they may not be sufficient since technology itself changes so rapidly as do user needs. To strengthen the justification for these technology grants, we suggest that GPO determine the number of libraries that would be unable to provide access to the expanding array of electronic FDLP materials without these start-up grants.

We would like to make the following recommendations: 1) that the substantial progress and inter-agency dialog achieved throughout the past year continue; 2) that GPO and agencies work together to determine consistency regarding format and standards; and 3) that the Working Group model continue with Information Resource Management representatives from GPO, the Library of Congress, the Office of Management and Budget, and the Administrative Office of the United States Courts, as well as the library community and users.

We remain concerned that the draft study lacks clear incentives for agencies to participate in the program, particularly when their budgets are being cut. We also firmly believe that means of oversight and compliance must be provided in a meaningful and effective way. Our associations, representing the broader library community, are willing to work with you to supplement and strengthen the study by offering additional information in the following areas: the capabilities of and impact on libraries and users; the role and responsibilities of regional and selective depository libraries; and the troublesome questions of oversight and compliance. Thank you very much for this opportunity to comment on the draft report.

Sincerely,

Robert L. Oakley

Washington Affairs Representative American Association of Law Libraries

a. Nerduan

Carol C. Henderson

Executive Director - Washington Office American Library Association

Pruduce S. Alle-

Prudence S. Adler

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Association of Research Libraries

David R Bender

David R. Bender Executive Director

Special Libraries Association

cc: Members, House and Senate Legislative Appropriations Subcommittees Chair and Ranking Minority Member, House and Senate Authorizing Committees Ms. Linda Kemp, Staff Director, Joint Committee on Printing 1301 Pennsylvania Avenue, NW Suite 403 Washington, DC 20004-1701 USA

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ATTACHMENT 2

ALAAmericanLibraryAssociation

RESOLUTION COMMENDING THE UNITED STATES CONGRESS AND THE GOVERNMENT PRINTING OFFICE FOR FREE PUBLIC ACCESS TO THE GPO ACCESS SERVICES

- WHEREAS, The Government Printing Office (GPO) announced free use of the GPO
 Access services, a key component of the Federal Depository Library
 Program, for direct access by the public at no charge effective December
 1, 1995; and
- WHEREAS, GPO Access provides a valuable public service to the American public by connecting libraries and the public with critical Federal government information sources in electronic format, such as the Congressional Record, the Federal Register, the United States Code, congressional bills, reports and documents, and many others; and
- WHEREAS, By opening GPO Access to the public, this information is now more readily available to all citizens; now, therefore, be it.
- RESOLVED, That the ALA commend the Congress of United States, the Public
 Printer of the United States, the Superintendent of Documents, and
 Government Printing Office staff for providing the public direct online
 access to GPO Access services at no charge; and be it further
- RESOLVED, That ALA urge Congress to provide continued funding necessary to support direct no-fee public access to GPO Access services.

Adopted by the Council of the American Library Association San Antonio, Texas January 14, 1996 (Council Document 20.5) 1301 Pennsylvania Avenue, NW Suite 403 Washington, DC 20004-1701 Telephone 202 628 8410 Fax 202 628 8419 E-mail:alawash@alawash.org http://www.alawash.org **Washington Offica**

ATTACHMENT 3

ALAAmericanLibraryAssociation

RESOLUTION REGARDING A TRANSITION TO A MORE ELECTRONIC FEDERAL INFORMATION SYSTEM

WHEREAS,

The American Library Association has a long-standing record of support for a more electronic Federal Depository Library Program; and

WHEREAS.

The Government Printing Office (GPO), by Congressional direction, has prepared *The Electronic Federal Depository Library Program: Transition Plan, FY 1996-FY 1998*, an innovative and thought provoking proposal to lead the FDLP to a more electronic environment; and

WHEREAS.

The Transition Plan provides the foundation for increased public access to government information by offering new opportunities and mechanisms for the Federal government to share electronic information with the American public; and

WHEREAS,

In accordance with ALA policy, the practical experience of its member librarians, and the belief that public access to government information during the transition to a more electronic FDLP must be preserved, changes to the FDLP must ensure that:

- citizens are ready for and able to use government information predominately in electronic format, and
- providing information predominately in electronic format does not place undue technical, logistical, and economic burdens on the public nor on depository and other libraries that serve the general public, and
- Federal agencies are capable of supplying information in electronic format or that the GPO is in a position to convert all agency information to electronic formats, and
- the technological infrastructure is sufficiently developed to support a predominately electronic FDLP; and

WHEREAS,

The time-frame for a transition to a more electronic FDLP must be reasonable and not impose barriers to public access to government information; and

WHEREAS,

At this time, there are no empirical data to suggest that a predominately electronic FDLP will result in cost-savings and preserve public access to government information; and

WHEREAS,

Implementation of the Transition Plan requires substantial statutory changes to existing Federal information policy; now, therefore, be it

RESOLVED,

That the American Library Association urge Congress to continue efforts to move the FDLP toward a more electronic information and dissemination program by adopting a 5-7 year time-frame for the transition, and be it further

RESOLVED,

That the American Library Association urge Congress to reaffirm the Government's responsibility to provide Federal information in a format most appropriate to the public's needs by:

- supporting and funding the FDLP throughout the transition period at a level necessary to carry out a successful transition, and
- disseminating information in media appropriate to the information's content, use and audience, and
- ensuring no-fee public access to government information through depository libraries regardless of the agencies' cost recovery practices, and
- affirming the government's responsibility and strengthening its ability to archive and preserve government information for longterm access;

and, be it further

RESOLVED,

That ALA urge Congress to hold public hearings by both authorizing and appropriating committees prior to implementing the Transition Plan and to enact the necessary statutory changes to USC Title 44 in order to implement the Plan.

Adopted by the Council of the American Library Association San Antonio, Texas January 14, 1996 (Council Document 20.4)

APPENDIX A6



Congressional Research Service • The Library of Congress • Washington, D.C. 20540-7000

THE EXERCISE OF CONGRESSIONAL LEGISLATIVE POWER IN SERVICE TO THE INFORMING FUNCTION

Over a century ago, a young graduate student, Woodrow Wilson, later to be the twenty-eighth President of the nation, wrote Congressional Government, the first major analysis of the United States Congress. There, he penned a simple but startling statement: "The informing function of Congress should be preferred even to its legislative function." In operational terms, what Wilson had in mind regarding the "informing function" was, clearly, what is now called oversight. "Unless Congress have and use every means of acquainting itself with the acts and the disposition of the administrative agents of the government," he wrote, "the country must be helpless to learn how it is being served."

There was, however, more to his view regarding the informing function. He also noted that "unless Congress both scrutinize these things and sift them by every form of discussion, the country must remain in embarrassing, crippling ignorance of the very affairs which it is most important that it should understand and direct." A few years earlier, in 1877, Representative James Garfield, later to be our twentieth President, described such "discussion" in The Atlantic Monthly.

Congress has always been and must always be the theatre of contending opinions; the forum where the opposing forces of political philosophy meet to measure their strength; where the public good must meet the assaults of local and sectional interests; in a word, the appointed place where the nation seeks to utter its thought and register its will.²

Oversight and open debate continue to be important realizations of the informing function of Congress. Nonetheless, it can also be said that the First Branch has used its legislative power in service to the informing function as well. This has not been merely accommodation to the media, but a studied consideration of many related values, resulting in, though not always perfectly realized, various Federal information policies.

The history of Federal information policy development, and the congressional role in it, begins somewhat before the Federal Government actually became operative. Those origins lie in the Constitution. A meaningful account, however, is not accomplished with a simple linear portrayal of events. Thus, clusters of developments, related by common policy significance, are considered here and, in the interest of being somewhat concise, only highlights are offered. Together, they constitute a patchwork of overlapping areas of policy

¹ Woodrow Wilson. Congressional Government. Cleveland: Meridian Books, 1956; originally published 1885, p. 198.

² James A. Garfield. "A Century of Congress." The Atlantic Monthly, v. 40, July, 1877, p. 60.

evolution, often impinging upon and sometimes dynamically affecting one another. The resulting history of Federal information policies, while neither exhaustive nor definitive, examines the constitutional context, the publication foundation, accountability and administration considerations, national security struggles, personal and institutional confidentiality protections, and lifecycle management.

THE CONSTITUTIONAL CONTEXT

The Constitution of the United States created a limited government with some explicit powers and responsibilities. Certain of these concerned information matters. Among the enumerated powers of Congress, for example, are authority to "establish Post Offices and Post Roads," to "promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their Respective Writings and Discoveries," to "make Rules for the Government and Regulation of the land and naval Forces" (Article I, Section 8, clauses 7, 8, and 14), and to "make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States" (Article IV, Section 3, clause 2).

In the Bill of Rights, guarantees are made concerning speech and press freedoms (Amendment I), the security of personal papers against "unreasonable searches and seizures" (Amendment IV), and not being "compelled in any Criminal Case to be a witness against" oneself (Amendment V). Also included are rights to a public trial in criminal prosecutions and "to be informed of the nature and cause of the accusation; to be confronted with the witnesses against [oneself]; [and] to have compulsory process for obtaining witnesses in [one's] favor" (Amendment VI).

The Constitution created a government accountable to the people and itself as well. There was an expectation that government leaders would keep the citizenry informed of developments, or at least maintain a record of their activities. In this regard, the Constitution specifies that each House of Congress "shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy" (Article I, Section 5, clause 3). Concerning the duties of electors, the Twelfth Amendment prescribes "they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and the number of votes for each, which lists they shall sign and certify" (Article II, Section 1, clause 3). With regard to the subnational level of government, the Constitution states: "Full Faith and Credit shall be given in each State to the Public Acts, Records, and judicial Proceedings of every other State" (Article IV, Section 1, clause 1).

Moreover, with its system of checks and balances, the Constitution anticipated that each branch would be knowledgeable of the activities and interests of the other two. In this regard, the Constitution specifically provides that, when the President vetoes a bill, "he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal and proceed to reconsider it" (Article I, Section 7, clause

2). Concerning interbranch accountability, provision is made for the President to "require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices" (Article II, Section 2, clause 1). Finally, the Constitution indicates that the President "shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient" (Article II, Section 3).

In many regards, these constitutional references to information matters indicate some fundamental expectations regarding government accountability and communication, the exercise of certain popular rights regarding information, and subsequent legislation on at least a few particular information subjects. Furthermore, historically, as experience and practice suggested that Congress create and refine additional statutory information policies, these, among other constitutional considerations, have guided the legislative process.

THE PUBLICATION FOUNDATION

During the Constitutional Convention of 1787, James Wilson of Pennsylvania stressed the importance of official printing and publication by the new government. Addressing a proposal to allow each chamber of the Federal Congress a discretion as to the parts of their journal that would be published, he told the delegates: "The people have the right to know what their Agents are doing or have done, and it should not be in the option of the Legislature to conceal their proceedings." The following year, James Madison and George Mason raised a similar consideration during the Virginia Convention on the new Constitution when speaking about the importance of publishing all receipts and expenditures of public money under the new government.

In deference to views such as these, the Federal Congress quickly provided for the printing and distribution of both laws and treaties, ⁶ the preservation of state papers, ⁶ and the maintenance of official files in the new departments. ⁷ Controversial legislation, such as the Alien and Sedition Acts, prompted a special

³ Max Farrand, ed. *The Records of the Federal Convention of 1787*. Vol. 2. New Haven: Yale University Press, 1937, p. 260.

⁴ Ibid., Vol. 3, pp. 311, 326.

⁵ See, for example, 1 Stat. 68 (1789); 1 Stat. 443 (1789); 1 Stat. 519 (1797); 1 Stat. 724 (1799); 2 Stat. 302 (1804); 3 Stat. 145 (1814); 3 Stat. 439 (1818); 3 Stat. 576 (1820).

⁶ See 1 Stat. 168 (1789).

⁷ See, for example, 1 Stat 28 (1789); 1 Stat. 49 (1789); 1 Stat. 65 (1789). These and similar provisions were consolidated in the Revised Statutes of the United States (1878) at section 161, which is presently located in the United States Code at 5 U.S.C. 301.

publicity effort.⁸ The printing and distribution of both the Senate and House journals was authorized in 1813.⁹ Congress arranged for a contemporary summary of floor proceedings to be published in the Register of Debates beginning in 1824. It then switched in 1833 to the weekly Congressional Globe, which sought to chronicle every step in the legislative process of the two Houses, and then established a daily publication schedule for the Globe in 1865.¹⁰ Subsequently, the Congressional Record succeeded the Globe in March of 1873 as the official congressional gazette.¹¹ It was produced by a new Federal printing agency created by Congress.

Provision was initially made in 1846 for the routine printing of all congressional reports, special documents, and bills. While these responsibilities were met for many years through the use of contract printers, such arrangements proved to be subject to considerable political abuse. Consequently, in 1860, Congress established the Government Printing Office to produce all of its literature (including, eventually, the Congressional Record) and to serve, as well, the printing needs of the executive branch. Additional aspects of government-wide printing and publication policy were set with the Printing Act of 1895, which is the source of much of the basic policy still found in the printing chapters of Title 44 of the United States Code.

Congress, in addition to publishing the statutes and a variety of legislative literature (including executive branch materials which were initially produced as Senate or House documents), promoting newspaper reprinting of laws and treaties, and circulating printed documents through official sources, also developed a depository library program to further facilitate public knowledge of government actions. In 1859, the Secretary of the Interior was statutorily tasked with distributing all books printed or purchased for the use of the Federal Government, except those for the particular use of Congress or executive branch entities. A decade later, in 1869, a subordinate officer in the Department—the Superintendent of Public Documents—was mandated to

⁸ See Debates and Proceedings in the Congress of the United States (Annals of the Congress of the United States). Vol. 9. Washington: Gales and Seaton, 1851, pp. 2426-2427, 2429-2437, 2445-2456.

⁹ See 3 Stat. 140 (1813).

¹⁰ See 13 Stat. 460 (1865).

¹¹ See 17 Stat. 510 (1873).

¹² See 9 Stat. 113 (1846).

^{13 12} Stat. 117 (1860).

^{14 28} Stat. 601 (1895).

^{18 11} Stat. 379 (1859).

perform this responsibility. ¹⁶ Distributions were made to certain libraries throughout the country which were designated to be depositories for government documents. This arrangement had been begun in 1813 with regard to congressional materials ¹⁷ and was extended in 1857 to include other Federal literature. ¹⁶ The Printing Act of 1895 relocated the Superintendent of Public Documents, making the position an integral and important role within the Government Printing Office. ¹⁹

In the relocation process, the Superintendent was also given responsibility for managing the sale of documents and preparing periodic indices of Printing Office products. Until 1904, the sale stock available to the Superintendent derived entirely from such materials as were provided for this purpose by the departments and agencies or were returned from depository libraries. The situation was altered when the Superintendent was granted authority to reprint any departmental publication, with the consent of the pertinent Secretary, for public sale.²⁰ Congress legislated comparable discretion to reproduce its documents in 1922.²¹

There were, of course, other related developments paralleling these events. For example, Congress first addressed the protection of intellectual property rights in 1790 with patenting and copyright statutes, and has continued to remain attentive to both areas of law. ²² Information protected under Federal patent law has the status of being an open secret: a patent holder enjoys a 17-year right of exclusive use regarding his or her invention, yet science and technology benefit as well from the availability of the knowledge involved. Copyright provides protection for a broad variety of original works of authorship fixed in any tangible medium of expression. Among the latest developments in this area was a 1988 congressional enactment allowing the United States to join the Berne Convention for the Protection of Literary and Artistic Works, an international treaty providing copyright safeguards among signatory nations. ²³

Other historically significant institutional developments pertaining to government document, publication, and information availability include the $1800\,$

^{16 15} Stat. 292 (1869).

^{17 3} Stat. 140 (1813).

^{18 11} Stat. 253 (1857).

¹⁹ 28 Stat. 610. Current authority for the depository library program may be found at 44 U.S.C. 1901-1915.

²⁰ 33 Stat. 584 (1904).

^{21 42} Stat. 541 (1922).

²² See 1 Stat. 109 (1790) on patenting and 1 Stat. 124 (1790) on copyright.

²³ See 102 Stat. 2853 (1988).

inauguration of the Library of Congress²⁴ and the 1862 origination of the National Agricultural Library.²⁵ In more recent times, the National Archives was chartered in 1934,²⁶ a statutory avenue for the National Technical Information Service was legislated in 1950,²⁷ and, not long ago, Federal Information Centers were congressionally mandated.²⁸

ACCOUNTABILITY AND ADMINISTRATION

Shortly after the dawn of the twentieth century, the Federal Government entered a new phase—the rise of the administrative state. Among the forces contributing to this development was the Progressive Movement, which sought greater government intervention into and regulation of various sectors of American society. An autonomous Department of Labor was established in 1913 along with the Federal Reserve. The Federal Trade Commission was created the following year. With United States entry into World War I, regulatory activities further expanded and the number of administrative agencies increased. With the postwar era, government expansion momentarily slowed, but began again with the onset of the Great Depression and the arrival of the New Deal.

As Federal regulatory powers and administrative entities dramatically grew during this period, there was a concomitant increase in both the number and variety of controlling directives, regulations, and requirements. While one contemporary observer characterized the operative situation in 1920 as one of "confusion," another described the deteriorating conditions in 1934 as "chaos." During the early days of the New Deal, administrative law pronouncements were in such disarray that, on one occasion, government attorneys arguing a lawsuit before the Supreme Court were embarrassed to find their case was based upon a nonexistent regulation, 31 and on another occasion, discovered they were pursuing litigation under a revoked executive order. 32

^{24 2} Stat. 55, 56 (1800).

^{25 12} Stat. 387, 388 (1862).

^{26 48} Stat. 1122 (1934).

^{27 64} Stat. 823 (1950).

^{28 92} Stat. 1641 (1978).

²⁹ John A. Fairlie. "Administrative Legislation." Michigan Law Review, v. 18, January, 1920, p. 199.

³⁰ Erwin N. Griswold. "Government In Ignorance of the Law-A Plea For Better Publication of Executive Legislation." Harvard Law Review, v. 48, December, 1934, p. 199.

^{4 &}lt;sup>31</sup> United States v. Smith, 292 U.S. 633 (1934), appeal dismissed on the motion of the appellant without consideration by the Court.

³² Panama Refining Company v. Ryan, 293 U.S. 388 (1935).

To address the accountability problem, Congress created an executive branch gazette. Such a publication had been temporarily produced during World War I. Printed as a tabloid newspaper, the Official Bulletin contained presidential orders and proclamations along with department and agency directives, as well as various news items pertaining to the European hostilities. Issued each workday, it reached a peak circulation of 118,000 copies in August of 1918.³³

The new gazette, statutorily authorized in July, 1935, was named the Federal Register. Produced in a magazine format, it contained a variety of presidential directives and agency regulations, and was eventually published each workday. In 1937, Congress inaugurated the Code of Federal Regulations, a useful supplement to the Register. This cumulation of the instruments and authorities appearing in the gazette contained almost all operative agency regulations, and was eventually updated annually. It was organized in 50 titles paralleling those of the United States Code, with Title 3 containing presidential instruments.

Later, the general statutory authority underlying the Federal Register was relied upon for the creation of other series of publications—the United States Government Manual, which has been available for public purchase since 1939; the Public Papers of the Presidents, which were first published in 1960; and the Weekly Compilation of Presidential Documents, which was begun in the summer of 1965.

The accountability arrangements established with the creation of the Federal Register and Code of Federal Regulations, however, addressed only half of the problem. Uniformity in the form and promulgation of agency regulations remained an issue. The Attorney General created a study committee to explore this matter, and it reported in 1941.³⁶ Consideration of its recommendations was temporarily postponed due to United States entry into World War II. Congress and the executive branch subsequently cooperated in the development of the Administrative Procedure Act, which was enacted in 1946.³⁷ In addition

³³ See George Creel. How We Advertised America. New York: Harper and Brothers, 1920, pp. 208-211; James R. Mock and Cedric Larson. Words That Won the War. Princeton: Princeton University Press, 1939, pp. 92-96; U.S. Committee on Public Information. Complete Report of the Chairman of the Committee on Public Information, 1917, 1918, 1919. Washington: U.S. Govt. Print. Off., 1920, pp. 63-67; Stephen L. Vaughn. Holding Fast the Inner Lines. Chapel Hill: University of North Carolina Press, 1980, pp. 197-200, 323-324.

^{34 49} Stat. 500 (1935).

^{35 50} Stat. 304 (1937).

³⁶ See U.S. Department of Justice. Committee on Administrative Procedure. Administrative Procedure in Government Agencies. S. Doc. 8, 77th Congress, 1st Session. Washington: U.S. Govt. Print. Off., 1941.

^{37 60} Stat. 237 (1946).

to establishing a uniform procedure for the promulgation of agency regulations, the statute also contained an important public information section which directed the agencies to publish in the *Federal Register* "the established places at which, and methods whereby, the public may secure information or make submittals or requests." However, broad discretionary allowances also were made for protecting information, and a changing climate of opinion within the Federal bureaucracy soon transformed this public information mandate into a basis for administrative secrecy.

Conditioned by recent wartime information restrictions, intimidated by zealous congressional investigators and other official and unofficial pursuers of disloyal Americans both within and outside of government, and threatened by various postwar reconversion efforts at reducing the executive workforce, the Federal bureaucracy was not eager to have its activities and operations disclosed to the public. Attempts by the press and scholars to gain access to department and agency records were often stymied by a "need-to-know" policy, deriving from the housekeeping statute and the Administrative Procedure Act. The first of these laws, dating to 1789, granted the heads of departments considerable discretion to prescribe regulations regarding the custody, use, and preservation of the records, papers, and property of their organization, including setting limitations on the public availability of these materials.³⁹ The Administrative Procedure Act indicated that matters of official record should be accessible to the public, but allowed restrictions to be applied "for good cause found" or "in the public interest." Such authorities did not so much foster the "need-to-know" policy, but, rather, justified it.

By the early 1950s, many sectors of American society, including legal and good government reformers, the press, and elements of Congress, were unhappy with this situation and with burgeoning administrative entities that would not account for their actions by responding to information requests. Consequently, in 1966, after a long congressional examination and a difficult legislative struggle, the public information section of the Administrative Procedure Act was replaced by a new statute and a new concept in information access. It was a revolutionary contribution to Federal information policy. The Freedom of Information Act established a presumptive right of public access to department and agency records, specified nine categories of information that could be exempted from the rule of disclosure, and provided for court resolution of disputes over the availability of requested materials. Subsequently amended, with portions subject to considerable judicial interpretation, the statute has remained an effective tool for enabling public access to topical records from entities of the administrative state.

^{38 60} Stat. 238.

³⁹ See note 7.

^{40 80} Stat. 250 (1966); 5 U.S.C. 552.

The FOI Act has also served as a model for other information access laws. An example in this regard is the Privacy Act of 1974, which sets certain standards of fair information use, prohibits the collection of some kinds of personally identifiable information, and otherwise allows American citizens to gain access to a great many files on themselves which are held by Federal agencies.⁴¹

Beyond the documentary realm, the FOI Act was a model for two laws concerning public observation of executive branch deliberations. The Federal Advisory Committee Act of 1972 established a presumption that agency advisory committee meetings would be open to public scrutiny, specified conditions when the rule of openness might be modified, and provided for court resolution of disputes over the propriety of closing such meetings. It also set certain conditions regarding public notices of advisory committee meetings and called for balance in the selection of advisory committee members.⁴²

The Government in the Sunshine Act of 1976 presumes that the policy-making deliberations of collegially-headed Federal agencies—such as boards, commissions, or councils—will be open to public scrutiny unless closed in accordance with specified exemptions to the rule of openness. Disputes over the propriety of closing a meeting may be resolved in court. Conditions regarding public notice of such meetings are specified.⁴³

NATIONAL SECURITY

Since the earliest days of the Republic, government officials have engaged in the practice of assigning a secret status to certain kinds of sensitive information. Such actions were taken to assure the survival of the nation in a dangerous world, and usually concerned foreign affairs, defense, or intelligence matters. In more recent times, this protection has been afforded to a new, broad, somewhat nebulous category or interest called "national security."

The executive branch, including the armed forces, engaged in such information security-secrecy practices for over a half century before Congress, for the first time, in 1857, statutorily authorized the President

to prescribe such regulations, and make and issue such orders and instructions, not inconsistent with the Constitution or any law of the United States, in relation to

^{41 88} Stat. 1896 (1974); 5 U.S.C. 552a.

^{42 86} Stat. 770 (1972); 5 U.S.C. App.

^{43 90} Stat. 1241 (1976); 5 U.S.C. 552b.

⁴⁴ See Harold C. Relyea. "National Security and Information." Government Information Quarterly, v. 4, No. 1, 1987, pp. 11-28.

the duties of all diplomatic and consular offices, the transaction of their business . . . , the safekeeping of the archives, the public property in the hands of all such officers [and] the communication of information . . . from time to time, as he may think conducive to the public interest. 45

Formal military secrecy directives or regulations appeared only after the Civil War. The initial Army General Order of 1869 concerning security-secrecy pertained to the physical protection of forts and coastal defenses. Such facilities were not to be photographed or otherwise depicted without prior permission from appropriate officials. This limited application underwent a series of evolutionary adjustments and, shortly after United States entry into World War I, resulted in a fully developed information security classification system.⁴⁶

In 1911 and 1917, Congress provided for the criminal punishment of espionage and the acquisition of valuable defense information by spies.⁴⁷ Neither law, however, specifically sanctioned the information secrecy practices of the military departments or the armed forces. Initially, the military departments made no mention of the espionage laws in their information security orders and directives, but soon such regulations began referring to these laws as a basis for their enforcement.

Relying upon a 1938 statute concerning the protection of armed forces installations and equipment and "information relative thereto," President Franklin Roosevelt assumed responsibility for security classification policy and procedure by issuing a March, 1940, executive order. It largely paralleled Army and Navy regulations for marking and handling secret records and gave civilian employees of the military departments authority to classify information. However, the legislative history of the 1938 statute, upon which the President relied to issue his directive, provided no indication that Congress anticipated or expected that such a statutory classification arrangement would be created. Indeed, the executive order may have been a substitute for statutory authority which Congress might not have granted. The case of the War Security Act is illustrative. Prepared at the direction of Attorney General Francis Biddle, the proposal would have given the executive branch broad powers for maintaining

^{45 11} Stat. 60 (1857).

⁴⁶ See Harold C. Relyea. Silencing Science: National Security Controls and Scientific Communication. Norwood, N.J.: Ablex Publishing Corporation, 1994, pp. 81-86.

^{47 36} Stat. 1084 (1911); 40 Stat. 217 (1917).

⁴⁸ E.O. 8381, 3 C.F.R. 1938-1943 Comp., pp. 634-635.

⁴⁹ See 52 Stat. 3 (1938).

internal security, including information matters, within the United States.⁵⁰ Evoking considerable public controversy, the measure was sharply debated in the House and never came to the floor for consideration by the full Senate.⁵¹

In general, Congress has evidenced a general reluctance to authorize directly or to legislate a government-wide information security classification system. Instead, while mandating information security arrangements for atomic energy data, ⁵³ intelligence sources and methods ⁵³ (as well as other intelligence considerations ⁶⁴), and patent applications, having national security implications, ⁵⁵ Congress, through various committees and subcommittees, successfully encouraged and pressured Presidents from Eisenhower to Reagan to narrow classification criteria and limit discretionary authority to classify.

Congress also has been wary and sometimes critical of government propaganda and censorship efforts. Congressional distaste for executive branch manipulation of official information was apparent in 1913 when it prohibited the use of appropriated funds "to pay a publicity expert unless specifically appropriated for that purpose."

When President Woodrow Wilson sought to establish a premier agency for combined propaganda and censorship functions during the nation's involvement in World War I, he did not turn to Congress, but relied instead upon his own constitutional authority and financial resources. The Committee on Public Information, created by an executive order in April of 1917, was largely funded from the President's discretionary national security and defense account. Congress cautiously appropriated only \$1.25 million, less than one-fifth of the Committee's total budget, during its three-year existence.⁵⁷

⁵⁰ See Congressional Record, v. 88, October 17, 1942, p. 8311; Ibid., v. 89, March 23, 1943, pp. 2393-2394.

⁵¹ See Ibid., v. 89, March 23, 1943, pp. 2390-2408; Ibid., March 31, 1943, pp. 2780-2799; Ibid., April 2, 1943, pp. 2877, 2878-2895; for press comments, see Ibid., Appendix, pp. A1312, A1688.

^{52 60} Stat. 755 (1946); 42 U.S.C. 2161-2168.

^{63 61} Stat. 495 (1947); 50 U.S.C. 403(d)(3).

⁵⁴ See, for example, 63 Stat. 208, 211 (1949), 50 U.S.C. 403g; 96 Stat. 122 (1982), 50 U.S.C. 421-426; 96 Stat. 2209 (1984), 50 U.S.C. 431-432.

^{55 66} Stat. 1 (1952); 66 Stat. 792, 805 (1952); 35 U.S.C. 161-188.

^{56 38} Stat. 208, 212 (1913); 5 U.S.C. 3107.

⁶⁷ U.S. Committee on Public Information, op. cit., p. 8; Vaughn, op. cit., pp. 245-246.

Eleven days after the Japanese attack on Pearl Harbor, Congress completed work on the First War Powers Act and the legislation was signed into law. ⁵⁸ It conferred on the President authority to censor all communications from the United States to foreign countries. Domestically, the press and radio were controlled on a strictly voluntary and extra-legal basis under a Censorship Code issued by the Office of Censorship. While the primary agency in these matters, the Office of Censorship, was created by executive order, Congress appeared to be more willing to finance this wartime entity. Starting out in 1942 on \$7.5 million allocated from the President's emergency fund, the Office was subsequently appropriated \$26.5 million for 1943, \$29.6 million for 1944, and \$29.7 million for 1945. ⁶⁹

Wartime propaganda was largely handled by the Office of War Information, established in June of 1942 by another executive order. The new entity immediately aroused congressional suspicions because it not only appeared to be engaging in questionable and perhaps illegal "flackery," but also was seen by opponents to be the latest in a series of publicity structures promoting the New Deal. 60 Soon OWI publications came under congressional criticism. Verbal characterization and photographic depiction of Roosevelt in the first issue of Victory, an O.W.I. magazine designed for overseas distribution, brought allegations that this was expensive campaign literature designed to help the President win a fourth term. A pamphlet on taxation was resented because it favored withholding taxes, and a booklet on inflation "attracted criticism for its support of policies that were still under congressional consideration."61 Congressional distaste for the domestic publicity efforts of OWI became quite apparent in 1943. The House Committee on Appropriation reduced the Office's funding request for home front activities by almost 40 percent to \$5.5 million. House floor debate on OWI finances resulted in even more drastic action: a 218-114 vote to abolish entirely the Domestic Branch of the Office. The Senate rejected this prospect and reinstated \$3,561,499 for OWI program activities within the United States. This amount was reduced to \$2.75 million by conferees of the two Houses, prompting the Office to curtail sharply its domestic publicity efforts.62

In November, 1954, Secretary of Commerce Sinclair Weeks announced that, at the direction of the President and on the recommendation of the National Security Council, he was creating an Office of Strategic Information within his

^{58 55} Stat. 838 (1941).

⁵⁹ U.S. Office of Censorship. A Report on the Office of Censorship. Washington: U.S. Govt. Print. Off., 1945, p. 10.

⁶⁰ Allan M. Winkler. The Politics of Propaganda. New Haven: Yale University Press, 1978, pp. 21-24.

⁶¹ Ibid., pp. 66-67.

⁶² Ibid., pp. 70-71.

department.⁶³ The mission of this new entity, according to the Secretary, was to work with various private sector groups "in voluntary efforts to prevent unclassified strategic data from being made available to those foreign nations which might use such data in a manner harmful to the defense interests of the United States.*64 The Office, however, was something of an anomaly. It had no legislative charter and its activities, in many regards, appeared to overlap with certain more clearly stated statutory functions of other agencies. Because the concept of "strategic information" was not clearly defined, its regulatory application seemed to be of uneven or sometimes unfair impact. Nonetheless, the new Office was created to identify imbalances favoring the Communist bloc in exchanges of scientific, technical, and economic information, and to alert Federal agencies as well as scientists, businesses, and the press to the dangers of indiscriminate publication of unclassified information of possible benefit to an enemy nation.

A newly created House subcommittee on government information examined the mission and activities of the Office of Strategic Information. Finding the agency to be duplicating the efforts of other regulatory entities, somewhat intimidating to the journalistic and scientific communities, and potentially censorial, the subcommittee urged its abolition. The recommendation was subsequently endorsed by the parent Committee on Government Operations. In April, 1957, the House of Representatives eliminated all funds for the Office of Strategic Information and prohibited the transfer of any money from other sources for its continuation. When the Senate agreed to this action, Secretary Weeks was forced to abolish the entity.

Congressional concern about government propaganda activities was once again evident in 1972. In the aftermath of the domestic airing of a United States Information Agency film, "Czechoslovakia 1968," in a televised report, a dispute arose over the legality of U.S.I.A. distribution of its materials within the

 $^{^{63}}$ See Federal Register, v. 19, December 7, 1954, pp. 8045-8046; also see lbid., v. 20, September 28, 1955, p. 7233.

⁶⁴ U.S. Department of Commerce. Office of the Secretary. Press release G-520. November 5, 1954. Washington, D.C.; also see James Russell Wiggins. Freedom or Secrecy. Revised edition. New York: Oxford University Press, 1964, pp. 102-103.

⁶⁵ See U.S. Congress. House. Committee on Government Operations. Availability of Information from Federal Departments and Agencies. Hearings, 84th Congress, 2d Session. Washington: U.S. Govt. Print. Off., 1956, pp. 1123-1187, 1233-1286, 1447-1521, 1639-1711; U.S. Congress. House. Committee on Government Operations. Availability of Information from Federal Department and Agencies. H. Rept. 2947, 84th Congress, 2d Session. Washington: U.S. Govt. Print. Off., 1956, p. 91.

⁶⁶ See Congressional Record, v. 103, April 9, 1957, p. 5376; also see U.S. Congress. House. Committee on Government Operations. Availability of Information from Federal Departments and Agencies. H. Rept. 2578, 85th Congress, 2d Session. Washington: U.S. Govt. Print. Off., 1958, p. 13-14.

⁶⁷ See Federal Register, v. 22, July 24, 1957, p. 5876.

nation's borders. In reaction to an Attorney General's ruling sustaining the showing, Congress included in the Foreign Relations Authorization Act of 1972 a virtual blanket prohibition on U.S.I.A. making its products available within the United States.⁶⁸

CONFIDENTIALITY

Apart from national security considerations, information is also lawfully protected to maintain the integrity of persons. In the case of individuals, such protection is understood as privacy. However, in the case of corporate persons, protection extends to proprietary or commercially valuable information.

Individual privacy, the wish not to be intruded upon, probably predates recorded history. Certainly it was one of the presocietal or "natural rights" which the Founding Fathers sought to preserve. When drafting the Bill of Rights, they gave constitutional recognition to privacy expectations in the First Amendment, including the right not to have to speak, privacy of opinion, freedom of association, and the right of anonymous or pseudononymous expression; the Third Amendment, prohibiting the quartering of troops in private homes during peacetime without the owner's consent; the Fourth Amendment, guaranteeing personal security against unwarranted searches and seizures; and the Fifth Amendment, specifying the privilege against self-incrimination. In a landmark 1965 decision, the Supreme Court viewed these and the Ninth Amendment as being the source of a penumbral right of privacy. ⁶⁹

Through the years, for various government activities and programs involving the collection and maintenance of personally identifiable information such as the census and income tax returns, Congress has legislated prohibitions on the disclosure of such data. These statutory restrictions are recognized in the third exemption of the Freedom of Information Act, 70 as is the general right of privacy in the sixth exemption. 71 The Privacy Act prohibits government agencies from collecting some kinds of personally identifiable information. It also allows American citizens to gain access to and make supplemental corrections of a great many records on them which are in agency files. Sadly, this possibility constitutes a concession of sorts that much of the autonomous determination of when, how, and to what extent information about oneself is communicated to others has been lost in the face of technological Traditional expectations of individual privacy have been encroachments. diminished and replaced by expectations of records accuracy. In recent years, Congress has produced several laws providing citizens greater control over

^{68 86} Stat. 489, 494 (1972); 22 U.S.C. 1461.

⁶⁹ Griswold v. Connecticut, 383 U.S. 479 (1965).

⁷⁰ 5 U.S.C. 552 (b)(3)

⁷¹ 5 U.S.C. 552 (b)(6).

personal records held by third parties, including the Fair Credit Reporting Act, 72 the Privacy Act, 73 the Family Educational Rights and Privacy Act, 74 and the Pupils' Rights Act, 75 among others. 76

A century ago, the Supreme Court recognized corporations as being "persons," but has not vested them with the privacy rights reserved for individuals.⁷⁷ Generally, when legal protection has been accorded to the information of corporate entities, it has been done for economic reasons and without explanation in terms of privacy rights. Perhaps the best known statutory prohibition in this regard is the Trade Secrets Act, which makes the disclosure of trade secrets by a Federal officer or employee criminally punishable.⁷⁸ This particular authority, which was created in a 1948 recodification of the Federal criminal code, ⁷⁹ derives from a 1864 income tax nondisclosure statute, ⁸⁰ a 1916 Tariff Commission nondisclosure statute, ⁸¹ and a 1938 Commerce Department nondisclosure law.⁸² A 1977 study prepared by the Department of Justice identified 90 operative statutes "reflecting varied approaches to the regulation of the disclosure by Federal agencies of the information they collect from or maintain about business entities." Moreover,

^{72 15} U.S.C. 1681-1681t.

^{73 5.} U.S.C. 552a.

^{74 20} U.S.C. 1232g.

^{75 20} U.S.C. 1232h.

Apart from this type of law, Congress has sought to reinforce privacy protections in other areas. For example, with regard to the exercise of police powers, the Privacy Protection Act of 1980 (94 Stat. 1879; 42 U.S.C. 2000aa-2000aa-1) overturned the majority position of the Supreme Court in *Zurcher v. Stanford Daily* (436 U.S. 547 (1978)) and limited governmental search and seizure of documentary materials possessed by persons. More recently, Congress set limits on private sector use of polygraphs in the Employee Polygraph Protection Act of 1988 (102 Stat. 646; 29 U.S.C. 2001-2009).

⁷⁷ Santa Clara County v. Southern Pacific Railroad Company, 118 U.S. 394 (1885).

^{78 18} U.S.C. 1905.

⁷⁹ Daniel Gorham Clement. "The Right of Submitters to Prevent Agency Disclosure of Confidential Business Information: The Reverse Freedom of Information Act Lawsuit." Texas Law Review, v. 55, March, 1977, pp. 607-613.

^{80 13} Stat. 233 (1864).

^{81 39} Stat. 756 (1916).

^{82 52} Stat. 8 (1938).

⁸³ U.S. Commission on Federal Paperwork. Confidentiality and Privacy. Washington: U.S. Govt. Print. Off., 1977, p. 26.

open government laws like the Freedom of Information Act⁸⁴ and the Government in the Sunshine Act⁸⁵ contain exemptions for the protection of trade secrets and confidential commercial information.

LIFECYCLE MANAGEMENT

Among the most recent statutory pronouncements by Congress concerning government information are management laws. The comprehensive management of information during its entire lifecycle was addressed in the Paperwork Reduction Act of 1995, ⁸⁶ which traces its roots to a 1980 predecessor statute. ⁸⁷ Another new law, the Information Technology Management Reform Act of 1996, embellishes the Paperwork Act with supplemental management authority and mandates chief information officers for the agencies. ⁸⁸ Other enactments have addressed problems raised by the increasing volume of government information produced, maintained, and used in electronic forms and formats. Among these are the Computer Security Act of 1987⁸⁹ and the Government Printing Office Electronic Information Access Enhancement Act of 1993. ⁸⁰

OVERVIEW

Clearly, during the past 200 years, Congress has repeatedly demonstrated its ability to use its legislative power in service to the informing function. In the early years of that history, Thomas Jefferson, a former President and a former legislator, penned the following comment in the summer of 1816.

I am certainly not an advocate for frequent and untried changes in laws and constitutions. I think moderate imperfections had better be borne with; because, when once known, we accommodate ourselves to them, and find practical means of correcting their ill effects. But I know also, that laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths disclosed, and manners and opinions change with the change of circumstances, institutions must advance also,

^{84 5} U.S.C. 552 (b)(4).

^{85 5} U.S.C. 552b(c)(4).

^{86 109} Stat. 163 (1995); 44 U.S.C. 3501-3520.

⁸⁷ See 94 Stat. 2812 (1980).

^{88 110} Stat. 679 (1996).

^{89 101} Stat. 1724 (1988).

^{90 107} Stat. 112 (1993); 44 U S.C. 4101-4104.

and keep pace with the times. We might as well require a man to wear still the coat which fitted him when a boy, as civilized society to remain ever under the regimen of their barbarous ancestors. 91

Such a view might be attributed to many Members of Congress during two centuries of legislating Federal information policies. Succeeding Congresses have established a legacy of information law and policy which contemporary legislators continue to nurture and refine. In these efforts, Congress—the people's branch—venerates a cherished value of our civic culture: information is the currency of democracy.

Prepared at the request of the Senate Committee on Rules and Administration

Harold C. Relyea Specialist in American National Government Government Division May 22, 1996

⁹¹ Letter to Samuel Kercheval, July 12, 1816, in Andrew A. Lipscomb and Albert Ellery Bergh, eds. The Writings of Thomas Jefferson. Vol 15. Washington: The Thomas Jefferson Memorial Association, 1904, pp. 40-41.

APPENDIX A7



THE LIBRARIAN OF CONGRESS WASHINGTON, D.C. 20540-1000

June 5, 1996

Dear Mr. Chairman:

Enclosed is a letter sent to the Public Printer, Government Printing Office, from Winston Tabb, Associate Librarian for Library Services, offering comments on behalf of the Library of Congress on the GPO's Draft Study to Identify Measures Necessary for a Successful Transition to a More Electronic Federal Depository Library Program.

As reflected in the letter, the Library's primary concern with GPO's plan for a transition to electronic dissemination of government documents is the continued availability of those documents in paper and microfiche formats for our partners under the International Exchange System (IES) Program. I am sending you a copy of those comments because of the importance of the IES program to the Library's collections and to our ability to provide the Congress with current information about legislative and executive developments of other governments.

Although these two programs are authorized under separate laws, the two are closely linked administratively, and, for the most part, draw from the same set of U.S. Government publications. Currently, exchange receipts from the Library's official exchange partners have averaged nearly 179,000 items per year. The estimated value of the materials received from our most reliable exchange partners approaches \$1.5 million per year. The Library and the GPO must develop, in essence, a "transition plan" for IES that will ensure that our exchange partners will continue to find it worthwhile to share their most current government information with us, so that we may in turn make this information available to the Congress.

We will keep you informed about our progress in this effort. Meanwhile, the Library respectfully requests that any changes to the Depository Library Program, made

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either through the appropriations process or through amendments to Title 44 of the U.S. Code, do not jeopardize the nearly century-old tradition of exchanging our government publications for critical documents of the governments of other nations.

Sincerely,

James H. Billington
The Librarian of Congress

Enclosure

The Honorable
John Warner
Chairman, Senate Committee on Rules and Administration
305 Russell
Washington, DC 20510

ce: Chairman Bill Thomas, Joint Committee on Printing
Chairman Ron Packard, Subcommittee on Legislative Appropriations
Chairman Connie Mack, Subcommittee on Legislative Branch
Rep. Vic Fazio
Senator Patty Murray
Senator Wendell Ford



THE LIBRARY OF CONGRESS

LIBRARY SERVICES WASHINGTON, D.C. 20540-4000

ASSOCIATE LIBRARIAN FOR LIBRARY SERVICES 202-707-6240 (VOICE) 202-707-6269 (FAX) wtab@loc.gov (EMAIL)

May 24, 1996

Dear Mr. DiMario:

Dr. Billington had submitted comments to your December 1995 "Transition Plan" for an electronic Depository Library Program (FDLP) in February. Since that time, you and your staff have done a commendable job incorporating the thoughts, concerns and wishes of those affected by the FDLP into the report, Draft Study to Identify Measures Necessary for a Successful Transition to a More Electronic Federal Depository Library Program.

Before the period for comment on the Draft Study expired, I wanted to reiterate some concerns on behalf of the Library of Congress regarding references in the draft to the International Exchange Program, which has always relied on the same set of U.S. government publications as the FDLP.

As Dr. Billington indicated in his February 29 letter to the chairmen of the Legislative Branch Appropriations Subcommittees, the continued availability of documents in paper and microfiche format for our partners under the International Exchange (IES) Program is essential for the foreseeable future. The five-to-seven year timeline for the transition to an electronic FDLP will make it easier to develop a "transition plan" for the International Exchange Program than the two year transition period referred to in the earlier Transition Plan.

However, in your recent *Draft Study*, while you acknowledge that federal agencies' migration to electronic formats may leave the IES Program with fewer materials to exchange, we are troubled by the statement that the direct impact on the IES Program of providing more information to the depository libraries in electronic formats will be minimal [Strategic Plan, p. 14].

Although the International Exchange Program is authorized under a separate law from the Depository Library Program, the two are administered jointly by GPO and, for the most part, draw from the same set of U.S. Government publications. The program has, for many years now, also been supplemented by copies of federal documents provided to the Library under the "by-law distribution" program. I believe we are already seeing a severe direct impact on the IES Program, with the discontinuation of delivery of several sets of Congressional Documents that were formerly provided to the Library under the by-law program.

The continued availability of documents in paper and microfiche format for those exchange partners who have only limited or no access to the Internet is critical for the foreseeable future. For each item that we send, we receive critical legal and legislative materials from other governments that, in many cases, would not be available to the Library of Congress--and thus for the

use of the Congress--by any other means. To the extent that any document now produced in paper format ceases to appear in other than electronic format, that item is lost to our exchange partners and, ultimately, reciprocal items become lost to our collections.

We are concerned that the "law of unintended consequences" may come into play as the FDLP becomes more and more an electronic program. In light of the long-term plan that will inevitably mean fewer federal documents will be available in paper or fiche formats, we would like to seriously begin discussions with the Government Printing Office to determine how the IES Program can survive in a more electronic environment, and ensure that our exchange partners will continue to find it worthwhile to share their information with us.

We look forward to continuing this discussion with you in further detail.

Sincerely,

Winston Tabb Associate Librarian

The Honorable Michael F. DiMario Public Printer United States Government Printing Office North Capitol and H Streets, N.W. Washington, D.C. 20401

cc:

Chairman Bill Thomas, Joint Committee on Printing
Chairman Ron Packard, Subcommittee on Legislative
Chairman John Warner, Senate Committee on Rules and Administration
Chairman Connie Mack, Subcommittee on Legislative Branch
Rep. Vic Fazio
Senator Patty Murray
Senator Wendell Ford
Linda Kemp, Joint Committee on Printing

APPENDIX A8



United States Government Printing Office Washington, DC 20401

OFFICE OF THE PUBLIC PRINTER

July 11, 1996

The Honorable John Warner Chairman Committee on Rules and Administration U.S. Senate Room 305, Russell Office Building Washington, DC 20510

Dear Mr. Chairman:

This responds to the letter to Mr. Wayne Kelley, Superintendent of Documents, dated June 24, 1996, from you and Senator Ford, transmitting questions for the record of the hearing held June 18. I am informed by your staff member, Ms. Joy Wilson, that the Committee would like to have responses to questions 9 and 10, concerning GPO's Printing Procurement Program, at the earliest possible date. GPO's responses to these questions are enclosed.

Sincerely,

MICHAEL F. I Public Printer

Enclosures

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9. In future hearings, we will examine other aspects of Title 44 and GPO, including printing operations and procurement issues. Can you provide, for the record, the costs to GPO for electronically disseminating bids, a rather recent service, and GPO's recommendations for offering an interactive electronic commerce system?

Answer: Electronic versions of printing procurement bid solicitations are now accessible by the public on the Internet via GPO's World Wide Web home page (http://www.access.gpo.gov). We estimate that less than \$1,500.00 in programming was spent developing the system capability for making these solicitations available on GPO's home page. These costs were absorbed by current staff and no out-of-pocket expenses were incurred.

As indicated in the attached correspondence with the Honorable William M. Thomas, Chairman of the Joint Committee on Printing, and the Honorable Bud Shuster, GPO did not need to undertake a large-scale effort to develop a system for electronically posting copies of bid solicitations. GPO developed its World Wide Web page originally as part of our mission to electronically disseminate Federal documents, an initiative known as GPO Access, which was mandated by the GPO Electronic Information Access Enhancement Act of 1993 (P.L. 103-40). It currently is used to post electronic versions of Federal documents as well as to provide links to other Government agency information sites. To post bid solicitations, we simply added another electronic link to a Printing Procurement web page containing a list of currently available bid solicitations. A user need only click on the name of the desired document to initiate a download of the full text of the document. The technical expertise, as well as the computer hardware and software needed to accomplish this, was already in place.

The electronic posting of bid solicitations benefits the Government in several ways. First, it allows the GPO to reduce the cost of making this information available to the public. The estimated cost of preparing a typical multipaged bid solicitation for the web page is less than \$1.00 per document. This cost is expected to drop further, because once a GPO term contract or other solicitation has been tagged it will not need to be tagged again when it is renewed. Approximately 90% of all term contracts are renewed. Making paper copies of solicitations available in response to walk-in and telephone requests is more expensive, ranging from \$1.13 to \$4.66.

Posting bid solicitations electronically also has the benefit of enabling more contractors to bid on Government printing jobs, thereby increasing competition and lowering procurement costs. Printed versions of bid solicitations are available to potential contractors and the public free of charge at any GPO bid room. However, only a limited number of copies are printed and, as a practical matter, access is limited to those printers located near GPO facilities. Other potential bidders therefore cannot gain ready access to bid opportunities except through reliance on proprietary bid services. Thus, for the vast majority of GPO contractors, most of whom are small businesses, the opportunities to review GPO bid solicitations are limited. However, by posting electronic versions of these documents on the Internet, all potential bidders, even remotely located small businesses, will have immediate access to additional bid opportunities. We have found that increasing the dissemination of formal bid solicitations results in more contractors submitting bids.

The increase in competition also results in a decrease in contract prices, lowering the overall cost to the Government for printing.

As we pointed out to Chairman Thomas and Congressman Shuster, GPO's electronic posting initiative has generated considerable interest and enthusiasm in the printing industry. It has been praised by the Printing Industries of America, Inc., and by the GPO Contractors Coalition, letters from these two groups are attached. In addition to the trade groups, individual printers have contacted GPO, both in writing and electronically, to voice their support for the program. Copies of some of these communications are also attached.

It is clear that the Federal Government will begin to rely more heavily on electronic commerce to meet its procurement needs. In October 1993, Executive Order No. 12,864 directed the Federal Government to explore and use electronic commerce in Federal procurement. This was followed by the Federal Acquisition Streamlining Act of 1994 (P.L. 103-355), which mandated, among other things, that the Federal Government begin using a computer network to disseminate solicitations in order to make Federal procurement more flexible, responsive, and timely. GPO's electronic posting of procurement solicitations is one way that we are using electronic commerce measures, consistent with the intent of both Administration and congressional efforts to streamline the Federal procurement process

We are also using electronic funds transfer to pay those contractors who can receive payments electronically, and we are currently developing a pilot project with the Defense Printing Service to accept print orders filed electronically. In the future, we envision posting small purchases on the Internet and receiving price quotations electronically.

This and related developments can only be accomplished through office automation improvements in GPO's Printing Procurement Department. We currently have a request before the Joint Committee on Printing to equip our procurement offices with computers, servers, and software. This equipment would end the Department's reliance on an obsolete mainframe-based system, reduce computer and telecommunications costs, and improve communications Department-wide and with customer agencies and contractors The capabilities of this system could be used to implement additional electronic commerce initiatives that will increase competition, improve service, and lower the costs of the Printing Procurement Program.



United States Government Printing Office Washington, DC 20401

OFFICE OF THE PUBLIC PRINTER

December 18, 1995

Honorable William M. Thomas Chairman Joint Committee on Printing Hart Office Building, Room SH-818 Washington, DC 20510

Dear Mr. Chairman:

This responds to your letter of November 6, 1995, forwarding correspondence from Congressman Bud Shuster.

Congressman Shuster's letter encouraged the U.S. Government Printing Office (GPO) to contract for the development of an on-line system to track the progress of awarded printing contracts. Currently, GPO maintains contract status information electronically in the Procurement Information Control System and makes it available to customer agencies and GPO contracting officers. We believe that using the agency's limited resources to procure a proprietary system from the private sector that would duplicate a system already in place would not be in the Government's best interests.

Congressman Shuster also inquired about the GPO's plans to develop a system to electronically post solicitations for the procurement of printing and recommended that this development be performed by the private sector. We appreciate Congressman Shuster's concerns that the GPO not undertake a large-scale effort to develop such a system. Please be assured that no such effort was needed to implement our system, and no further significant developmental effort is planned.

Electronic bid solicitation documents will be accessible on the Internet at GPO's World Wide Web page (http://www.access.gpo.gov). This Web page was developed originally as part of the GPO's mission to electronically disseminate Federal documents, an initiative known as GPO Access. It currently is used to post electronic versions of Federal documents as well as to provide links to other Government agency information sites. Recently, we posted information about the GPO's Printing Procurement Program and

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provided full text access to such key procurement documents as GPO Contract Terms. To post solicitations, we simply added another electronic link to a Printing Procurement Web page containing a list of currently available solicitations. A user need only click on the name of the desired document to initiate a download of the full text of the document. The technical expertise, as well as the computer hardware and software to accomplish this, was already in place and no significant developmental efforts were undertaken.

Indeed, the solicitation documents themselves were not created exclusively for the purpose of electronic posting. The documents are simply the residual electronic word processing files originally created by the Printing Procurement Department personnel as they write bid solicitations. Normally, the solicitations are printed by the GPO for public posting in bid rooms and are mailed or faxed to potential bidders. To post electronically, these word processing files are copied to the Web page after being placed in the Adobe Acrobat format. The electronic posting process is a relatively simple one, requiring no additional personnel resources and is accomplished at virtually no additional cost to the agency.

The advantages to both the Government and the printing industry of this electronic posting initiative are many. As Congressman Shuster notes, the posting of bid opportunities is consistent with both Presidential and Congressional efforts to streamline Federal procurement. 'In October 1993, Executive Order No. 12,864 directed the Federal Government to explore and use electronic commerce in Federal procurement. This was followed by the Federal Acquisition Streamlining Act of 1994, Pub. L. No. 103-355, mandating, among other things, that the Federal Government begin using a computer network to disseminate solicitations in order to make Federal procurement more flexible, responsive, and timely. While that Act requires implementation by the year 2000, the GPO is ready today to begin posting electronic copies of solicitations.

As noted earlier, printed versions of these solicitations are available to potential contractors and the public free of charge at any GPO bid room. However, only a limited number of copies are printed and, as a practical matter, access is limited to those printers located near GPO facilities. Other potential bidders therefore cannot gain ready access to bid opportunities except through reliance on proprietary private bid services. Therefore, for the vast majority of GPO contractors, most of whom are small businesses, the opportunities to review GPO Printing Procurement solicitations are limited. However, by posting electronic versions of these solicitations on the Internet, all potential bidders, even remotely located small businesses will have immediate access to additional bid opportunities. We have found that increasing the dissemination of formal bid solicitations results in more contractors submitting bids. This increase in competition also results in a

Page 3

decrease in contract prices, thereby lowering the overall cost to the Government for printing.

For some time, we have posted on the GPO's World Wide Web page an announcement that the GPO plans to make these solicitations available electronically. This announcement has generated considerable interest and enthusiasm in the printing industry, as reflected in the enclosed letter from the GPO Contractors Coalition. The Printing Industries of America has also expressed an interest in this initiative. In addition to these trade groups, individual printers have contacted the GPO to urge that this system be activated as soon as possible. While the initial offerings on the Web page will be limited to solicitations from the GPO Central Office Purchase Division's Contracts Branch and one of the GPO Central Office's four Term Contract Sections, we plan to add additional solicitations over time.

This new GPO service will provide the public electronic access to solicitation documents at no additional charge to the users. It is extremely important that GPO continue to offer free and unrestricted access to our solicitations. We believe shifting reliance to an outside vendor who could limit free public access would be detrimental to the procurement process.

A demonstration of the electronic posting of bid solicitations can be found at http://www.access.gpo.gov/procurement/bids/synopsis.shtml. The system for posting is in place, and fully operational, although not yet accessible by the public. All that remains is to open the electronic link on the Web page. I invite you and your staff to access this area of the GPO Web page and review the electronic dissemination initiative. We plan to activate the service and make it available to the public as soon as possible.

As always, I intend to keep the JCP fully informed of our efforts in this area.

Sincerely,

MICHAEL F. DiMARIO Public Printer

Nichael F. Mi Mano

Enclosure



United States Government Printing Office Washington, DC 20401

OFFICE OF THE PUBLIC PRINTER

March 25, 1996

Honorable Bud Shuster U.S. House of Representatives Room 2188, Rayburn Office Building Washington, DC 20515

Dear Mr. Shuster:

At the end of my March 5, 1996, testimony before the House Subcommittee on Legislative Appropriations, Chairman Packard provided me a copy of your October 26, 1995, letter to him and asked that I respond directly to you.

Your letter inquired about the U.S. Government Printing Office (GPO) initiative to make electronically posted copies of solicitations for the procurement of printing available to the public. We appreciate your concern that the GPO not undertake a large-scale effort to develop such a system. Please be assured that no such effort was needed to implement our system, and no further significant developmental effort is planned.

These electronic bid solicitation documents are accessible on the Internet at GPO's World Wide Web page (http://www.access.gpo.gov). This Web page was developed originally as part of the GPO's mission to electronically disseminate Federal documents, an initiative known as GPO Access. It currently is used to post electronic versions of Federal documents as well as to provide links to other Government agency information sites. To post solicitations, we simply added another electronic link to a Printing Procurement Web page containing a list of currently available solicitations. A user need only click on the name of the desired document to initiate a download of the full text of the document. The technical expertise, as well as the computer hardware and software needed to accomplish this, was already in place and no significant developmental efforts were undertaken.

Indeed, the solicitation documents themselves were not created exclusively for the purpose of electronic posting. The documents are simply the residual electronic word processing files originally created by the Printing Procurement Department

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personnel as they write bid solicitations. Normally, the solicitations are printed by the GPO for public posting in bid rooms and are mailed or faxed to potential bidders. To post electronically, these word processing files are copied to the Web page after being placed in the Adobe Acrobat format. The electronic posting process is a relatively simple one, requiring no additional personnel resources and is accomplished at virtually no additional cost to the agency.

As noted earlier, printed versions of these solicitations are available to potential contractors and the public free of charge at any GPO bid room. However, only a limited number of copies are printed and, as a practical matter, access is limited to those printers located near GPO facilities. Other potential bidders therefore cannot gain ready access to bid opportunities except through reliance on proprietary private bid services. Therefore, for the vast majority of GPO contractors, most of whom are small businesses, the opportunities to review GPO Printing Procurement solicitations are limited. However, by posting electronic versions of these solicitations on the Internet, all potential bidders, even remotely located small businesses, will have immediate access to additional bid opportunities. We have found that increasing the dissemination of formal bid solicitations results in more contractors submitting bids. This increase in competition also results in a decrease in contract prices, thereby lowering the overall cost to the Government for printing.

The electronic posting initiative has generated considerable interest and enthusiasm in the printing industry, as reflected in the enclosed letters from the GPO Contractors Coalition, and the Printing Industries of America. In addition to these trade groups, individual printers have contacted the GPO to voice their support for the program, as evidenced by the enclosed letter from Custom Printing Company.

This new GPO service will provide the public electronic access to solicitation documents at no additional charge to the users. It is extremely important that GPO continue to offer free and unrestricted access to our solicitations. We believe shifting the dissemination of procurement information to an outside vendor, who could limit free public access, would be detrimental to the procurement process.

Sincerely,

MICHAEL F. DIMARIO Public Printer

Enclosures





March 19, 1996

Michael F. DiMario Public Printer U.S. Government Printing Office North Capital and H Streets, N.W. Washington, DC 20401

Dear Mike:

We have had an opportunity to look at the GPO home page for several weeks now and have gotten some feedback from PIA Contractor's Group members who have used the on-line bid information. While we all recognize there is a way to go before the system is perfected, you are to be congratulated on getting the system to this point. PIA is enthusiastic about the potential for on line contract opportunities, particularly to the degree that such systems will offer broader access to bid information for printers throughout the country.

PIA has had difficulties with previous efforts by GPO to invest time and resources into electronic bid information systems. Our concern was that the resources of the GPO should be devoted to more critical areas because we felt there was adequate private sector competition providing such services. With the explosion of the Internet however, as well as the limited cost to the GPO of putting information on the Internet, you must take advantage of such opportunities. We are confident that you will remain sensitive to the difficulties inherent in on-line bidding and possible effects on private bid services. I would hope that the GPO could even explore ways to hotlink private services that could add value to your contract opportunities.

I know that GPO is eager to use this new tool to explore ways to reduce the time from concept by the agency customer to the actual presentation of the bid opportunity. One of the criticisms which has been made of GPO in the past has been that the jobs were delayed at GPO before they ever reached the private sector for bid opportunities. The successful private sector companies of today and the future are those which will be in a position to provide significant services to customers. Sensitivity to time and flexibility seem to be the major factors separating the leaders from the followers.

If there is anything PIA and the Contractors Group can do to assist in the development of your on-line products, please let us know.

Sincerely,

Benjamin Y. Cooper

Senoir Vice President, Government Affairs

GPO CONTRACTORS COALITION

212-A 3rd Street, NE Washington, DC 20002

Washington 202-543-9446 202-543-9332 (fax-faxback) Pennsylvania 717-261-9577 717-261-0711 (fax)

November 30, 1995

Michael F. DiMario
Public Printer
U.S. Government Printing Office
North Capitol & "H" Streets, N.W.
Stop: P, Room: C808
Washington, DC 20401

RE: GPO's Worldwide Web Page

Dear Mike:

I have had several occasions to use the GPO's web page recently, and have been very impressed. You and the GPO staff who made the concept of a web page a reality are to be commended!

One of the complaints we have heard regarding the GPO system is that it was outdated. and inefficient. At a time when both the legislative and executive branches are making mountains of digital information available, GPO's on-line system for accessing publicly available information provides positive proof of its ability to continue to fill its historic role as we move further into the electronic information age.

We are also pleased that the GPO is able to disseminate this information at a very low cost to the taxpayer.

One of the areas on your web site would provide private sector vendors with the ability to view invitations for bid. My understanding is that this area of your home page will display invitations for bids on formal jackets and programs from the central office initially, with regional formals being added as each region obtains PC's and connects to the system. I also understand that while there are plans to place small purchases on the system, that goal may not be accomplished for some time, as the small purchase forms are not yet created in a format which allows easy and inexpensive mounting on your web site.

We are the Government's printers

Coalition members produce over 80% of agency printing procured from the private sector

Our members eagerly await the completion of your plans, and fully support the use of low cost or no cost electronic dissemination of information to government vendors and any citizens.

We also continue to support the right of the "bid services" to obtain GPO or government information, including invitations for bid and requests for quotations on small purchases, in order that they can add value to the basic information and meet a market need of the private sector vendors with whom they do business. However, we strongly disagree with any suggestion that the government should restrict or limit vendor's access to public information or charge unreasonable fees for such access. To do so would unfairly deny vendors meaningful access to needed information, block the move to electronic commerce, and improperly support or assist private sector resellers (bid services) of that same information.

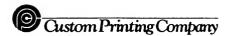
In this electronic age, private sector services have continued to flourish by adding value to basic government information, whether that information is initially made available in printed or electronic format.

We look forward to the planned improvements and expansions of the GPO home page, and are preparing for the day when the GPO takes the lead in moving towards full electronic commerce.

Very truly yours,

Frederic G. Antoun, Ir.

FGA/mhw



The Honorable Michael F. DiMario, Public Printer of the United States U.S. Government Printing Office Washington, D.C. 20401

March 20, 1996

Dear Mr. DiMario:

This letter is in reference to the U.S. Government Printing Office Home Page.

Custom Printing Company applauds the Government Printing Office for its innovative approach to making federal government information available on-line.

As a supplier to the federal government it is important to us that we have the most recent and up-to-date information available at all times. The Bid Synopses has become a vital link in our daily bidding process. We encourage any future expansion in this area, as well as extending it to the regional offices.

Again, we thank you and look forward to continuing as a viable and "well informed" supplier to the federal government.

Sincerely

Bill Jackson

Washington Area Representative

contproc@gpo.gov> To:

Cc: Bcc:

design@sungrfx.com From:

Procurment information on the Internet Friday, April 5, 1996 12:56:58 EST Subject: Date:

Attach: Certify: Forwarded by:

John, what a pleasure to finally have procurment on the net. I have been anxiously awaiting this for some time, as a small disadvantaged business I was not able to spend the kind of money companies require that specialize in sending you applicable bids. I look forward to the first job that I procure from use of the net. Thank You Brian Koningisor Sunshine Graphics # 460-84898

<prntproc@gpo.gov> To:

<marneson@gpo.gov>, <rsullivan@gpo.gov>, <mwalker@gpo.gov> Cc:

<wgardner@gpo.gov>,<jdurrington@gpo.gov> <dmacbride@gpo.gov>, <rblake@gpo.gov>

Bcc. barry@abcdprint.com (Barry Reischling) Production Printing From Printfile Transfers Tuesday, April 23, 1996 17:16:54 EDT From:

Subject:

Date:

Attach: Certify: Forwarded by:

Hi, Ladies & Gentleman. I recently discovered your GPO home page. It's excellent. I'm the owner of Seattle's aBCD Printing Company. We're an online commercial printer, and a printfile transfer pioneer. We feature a front end computer system linked to twin digital Docutechs. We make it simple for people to do business with us because we feature different printfile transfer software which we customize, educate people on its use, and install for free. In this way, we can better accomodate the many differences in our clients' systems and platforms.

We've been production printing jobs from final PostScripted printfiles, sent to us over the Net, by local software companies, since October, 1994. The quality of our printing is enhanced because we're capturing and printing original computer printfiles, not compromised by hard copy. Our business has exploded, validating the benefits of this concept. Please check us out. Our web sites:

aBCD Printing: http:/web.abcdprint.com/ Beware. Our jingles are super corny, but people say they're entertaining, so we're widely read.

http:/www.abcdprint.com/p-link/p-linkl.htm We're also building a database to similar digital printers in major cities worldwide to help facilitate future global print distribution.

Know This: The economic benefits of efficiency, speed and convenience characteristic of production printing from printfile transfers are so dramatic and compelling, that I recommend that your GPO procurement staff undertake studies of the many different ways your regional government outlets could benefit. e.g. Imagine the savings if governmental agencies could send their final printfiles, within minutes, directly from their computers to a contracting vendor support printer closest to that print job's final destination. That printer rips the file, FedX's a proof to that agency, get's that agency's OK, then prints and drop ships the job. Simple. Fast. Efficient. Cost effective. Piece a cake.

Please send me your comments. I'd be happy to discuss this further. Who knows? Perhaps aBCD can become your PacNW destination vendor. :-)

Barry J. Reischling aBCD Printing Company 222 Wall St., Suite 100 222 Wall St., Suit Seattle, WA 98121

Phone Toll Free: 1/800/443-1875

Fax: 1/206/443-4322

To: cegpo.gov>

Cc: Bcc:

from:

Subjet:

Phil Nanzetta <phil@nanzetta.com> Jobs to bid Sunda, March 31, 1996 9:21:12 EST

Date: Attch:

Certify: Forwarded by:

I suggest you post all jobs fr bidding on the web. I have a small printing company in the DC area and would be able to pull up and electronically searchthe web site for work to bid n.

Next step, of course, in the electrnic commerce parade is accepting bids electronically.

Nice site.

```
"Copycats" <rstor.@panix.com>, <prntproc@gpo.gov>
To:
```

Cc:

Bcc: From:

www admin<wwwadmin@gpo.gov> Re: regional offices

Subject:

Wednesday, March 13, 1996 11:33:54 EST Date:

Attach:

>>Copycats

Certify: Forwarded by:

("Copycats <rstor.@panix.com>"@LOCAL)

Your inquiry was sent to prntprocgpo.gov for a reply.

```
>>Dear Sir or Madam:
>>Dear Sir or Madam:
>>This page s a great idea - it simplifies the bidding process and opens
>>it up to a wider audience. Are there currently similar pages for the
>>regional offices? I am particularly interested in the NY office.
>>I do not bid on much GPO work because it is very time consuming to send
>>someone to the local GO office on a regular basis. If the bids were
>>available on the Web I would be a frequent bidder(and I'm sure many other
>>printers feel the same.)Morebidders=more competitin.
>>
>>Please e-mail your response to rstor@panix.com.
>>Thank you in advance
>>Bob Stor
```

o: <prntproc@gpo.gov>

c: c:

'rom: VQSprint@aol.com
Bubject: Bid Posting times

Pate: Thursday, April 11, 1996 12:50:19 EDT

ittach: lertify: Norwarded by:

•••••

first and foremost I would like to tell you that I think the Bid page is great!

When are the bids posted to this Page? Is it done daily, weekly, monthly or as jobs come in and need bids?

This would be helpful to me when I am scheduling when to check variuos $\mbox{\rm Dn-Line}$ services available to us.

I appreciate any information you can give me.

Thanks

cj VQSprint@aol.com 10. For the record, how many firms perform GPO-procured volume printing? What is their gross dollar volume? How many employees does each firm have? If GSA is not always cheaper and better than federal agencies' procurement for a variety of materials, is it also debatable that GPO can always procure cheaper and faster than federal agencies?

Answer: GPO currently has approximately 10,000 private sector printers on its Master Bid List. In FY 1995, approximately 3,000 of these printers were successful in winning contract awards and did business with GPO. GPO does not require private sector bidders to submit information on their gross dollar volume. In FY 1995, however, GPO paid private sector printers a total of \$532.1 million for work performed on GPO printing contracts. During FY 1995, GPO's printing procurement operation received a total of 202,534 jobs. While GPO requires private sector printers to submit information on the number of their employees when they are registered on the Master Bid List, we do not require them to update that information or to submit data on new hires or separations, so the data we have would not be up to date. However, the printing industry has periodically estimated that the average printing firm in the United States has 20 employees, and we accept that as a reasonably accurate portrayal of printers working with us. Approximately 85 percent of all private sector printers working with us are small businesses.

The use of GSA as a model for comparison to GPO's procurement operation has a number of limitations. GSA uses the Federal Acquisition Regulation (FAR) in conducting procurements. GPO utilizes its own Printing Procurement Regulation (PPR), which ensures a greater degree of flexibility and timeliness in printing procurements than the FAR. More importantly, GSA buys "off-the-shelf"items, some of which are relatively easy to obtain through other channels. GPO, by contrast, is involved only in the procurement of printing, which is essentially a custom product since the specifications of each job vary widely. Buying printing is not likely buying paper clips: a knowledge of printing requirements and processes is essential to ensuring the best possible value. GPO printing specifications are developed by knowledgeable printing experts. There are cases in which agencies have ended up paying exorbitant prices for printing when they have procured it themselves. For example, the national news media recently reported that the Department of Labor incurred a \$30,000 printing bill for copying services that would have cost approximately one-tenth that amount if procured with the same requirements through GPO, and approximately \$500 if procured through GPO utilizing GPO-recommended cost-saving measures. Thus, comparing GSA's operation, which buys many things, with GPO's, which buys only printing, does not necessarily fully address the possible impacts of decentralizing printing procurement authority back to Federal agencies.

As GPO has testified before the Senate Rules and Administration Committee in hearings on the National Performance Review (Feb. 3, 1994), the decentralization of printing procurement authority is likely to significantly increase the costs of Federal printing. With such authority, agencies are likely to produce much of their printing in-house, which several studies have shown is more expensive than procuring printing from the private sector. For those agencies that choose to procure printing, increased costs are also likely. GPO maintains a universe of competitors (10,000 private sector printers) that would be difficult for each agency to maintain. Without it, competition would decrease and prices would be likely to rise. In an environment of reduced competition, there are also likely to be increased opportunities for favoritism and corruption in

Federal printing. GPO offers "one-stop-shopping" to printing contractors. Without it, they would be compelled to increase their sales forces to search for contracting opportunities among multiple agencies, which would increase printing costs. GPO offers a package of contracting services. We review requisitions and offer suggestions for economizing; develop specifications; compete, award, and administer contracts; perform press inspections and other on-site reviews to assure quality; perform quality control reviews utilizing a unique program that quantifies quality ranking factors which has become widely recognized throughout the industry; provide voucher examination and payment services; provide legal advice on contracting; and make available a dispute resolution service through GPO's Board of Contract Appeals. For every agency to provide a similar scope of services would result in increased printing costs. In a centralized system, GPO can ensure that Federal printing procurements are conducted in concert with pertinent statutory requirements, such as requirements for the use of recycled paper and vegetable inks, and can ensure that printed products are placed in the appropriate dissemination programs, such as the Depository Library Program. For these reasons, a decentralized printing procurement program has several distinct disadvantages.



United States Government Printing Office Washington, DC 20402

OFFICE OF THE SUPERINTENDENT OF DOCUMENTS

July 19, 1996

Honorable John W. Warner, Chairman Honorable Wendell H. Ford, Ranking Member Committee on Rules and Administration Washington, DC 20510-6325

Dear Mr. Chairman and Senator Ford:

This is in answer to your letter dated June 24, 1996, transmitting questions relating to the Federal Depository Library Program (FDLP). The responses to the questions are enclosed. Thank you for giving us a few more days to respond since we did not receive your letter until July 3, 1996, and were then at the American Library Association (ALA) conference in New York City July 5, through July 10, 1996.

In your letter transmitting the questions, you also asked for suggestions for updating Sections 1901 and 1902 of Title 44. We have very specific proposals for updating not only Sections 1901 and 1902 of Title 44 but also the entire Chapter 19 and one Section of Chapter 17 which pertains to the FDLP. We shared these proposals with members of the Government Documents Roundtable of the ALA while at the conference and have incorporated many of their valuable suggestions. On July 20, 1996, the American Association of Law Libraries will be meeting and we will have a representative there to obtain their suggestions. We will then send our proposed update to you as soon as possible after incorporating any new suggestions.

Thank you for giving me the opportunity to testify at the hearing and respond to the questions. Please let me know if there is any clarification needed on the enclosed responses.

Sincerely,

Wagne P. Kelley

WAYNE P. KELLEY
Superintendent of Documents

Enclosure

Responses from Mr. Wayne P. Kelley, Superintendent of Documents, U.S. Government Printing Office, to Questions from the Senate Committee on Rules and Administration

1. Today, our citizens have "no-fee access" to the information provided to the depository libraries through the GPO program. If patrons want their own copy of a Government document, they are charged a modest fee for cost-recovery.

Could you elaborate about how cost-recovery statutes are impacting the "no-fee access" requirement, and explain how electronic information might exacerbate the problem? Is one solution a requirement that cost recovery can only take place as long as the FDLP is simultaneously provided a no-fee copy?

Overall, there has been a small percentage of paper products that have not been available to the Depository Program because of the "cost recovery" or "self sustaining" requirement. With more and more information only available via agency "cost recovery" electronic services, however, this problem will be greatly exacerbated.

When agencies are required to recover costs of disseminating their electronic information, they often act to protect the value of the information so they will have a market. Since the Government cannot legally copyright its information, this may lead to placing "copyright-like" restrictions on the information, or turning it over a private sector partner. Providing the FDLP with a no-fee copy may not be the solution since, with electronic information, anything disseminated over the Internet via GPO Access can be re-disseminated at little or no cost, thus affecting the agency's market and ability to recover costs.

As long as agencies are required to recover costs by selling information, this problem will exist. Agencies need to understand that a cost-recovery requirement does not exempt them from their Title 44 FDLP obligations. However, even when agencies comply with Title 44 and provide access to depository libraries, they often act to protect their market by placing restrictions on what depositories can do with the information; i.e., no electronic redissemination, no networking, etc.

One solution, which would not require changing the statutes which authorize/require cost recovery, would be for the Superintendent of Documents to reimburse agencies for the costs of FDLP usage out of the Salaries and Expenses appropriation which funds the FDLP.

The more global solution would be to eliminate statutory requirements/authorizations for agencies to charge for their information products.

2. If paper and electronic copies of Government information might still need to be produced, are we seeing cost-increases, neutral costs or cost savings in the next 5-10 years? Will the relative costs remain about the same, or will dramatic cost shifts between groups occur? How do you envision the costs being shared after the 5-7 year transition period?

There will be duplication of product content at least for the next 2 years, but our goal is to move to dissemination of only the electronic version when appropriate to the intended use. Even with some duplication, the transition to a more electronic FDLP is expected to be cost neutral to GPO and the publishing agencies through FY 1998. After that it's difficult to project, given the rate of change in technology, uncertainty as to agency plans, whether dissemination via the Internet will continue to be "free," etc.

Although initial dissemination costs to the publishing agencies may be reduced, we think more costs will be shifted downstream to libraries and end users; for computer equipment and connections, and especially for printing, although this effect will be offset by reduced future building space costs for housing print materials.

In addition, there will be costs associated with maintaining the electronic information for permanent public access. These costs, which will shift more to the Government in the electronic environment, include storing the data and refreshing and migrating it to avoid technological obsolescence. We do not believe that these costs are quantifiable at this time.

The keys to reducing the information life-cycle costs to all participants in the creation and use of Government information products will be to provide the best bibliographic control possible for locating the information and a high degree of standardization of the products themselves. The better the information is organized and standardized, the less staff libraries will need to provide assistance to users and the more efficient the use of equipment can be for both libraries and the general public.

3. When the Federal Depository Library Program was created, it was a marvelous example of an attempt to bring the Federal Government to the people at nearly 1400 libraries across the nation.

Once most new Federal information is disseminated electronically, what changes do you envision in the number of depository libraries and the services they provide?

The number of depository libraries is established by Congressional action. Redistricting often expands the potential number of depositories, by creating new vacancies, while the existing libraries all retain their status. We are not seeing libraries leaving the FDLP because of electronic information at this time, and have no indication that this will occur. A key reason, in fact, to remain a depository is to have a voice in the change that is taking place. In addition, libraries must adapt to deal with electronic information in all of their library activities. Expanding use of electronic dissemination technology is not limited to Government information.

There is certainly potential for greater use of Government information in non-depository libraries through GPO Access which is funded by the FDLP. However, these libraries will generally only support a limited number of the most popular information products, leaving it to the designated Federal depository libraries to service the full range of Government information made available through the FDLP. In this regard, we see the continuing need for at least the current number of designated libraries throughout the Country staffed with professional librarians who are experts in Government information to serve as intermediaries to support general public access. There may be the need to make some changes or add libraries to assure that each Congressional District has at least one electronically capable library

Concerning changes in service, all depositories have been advised that they must be capable of serving the public with Government information delivered via the Internet by October 1, 1996. The services provided by depository libraries and librarians will undoubtedly continue to change as more information is disseminated electronically. A recent Nielsen survey found that only 17 percent of the public has access to the Internet, whether at home, in the classroom, at the office, or through a friend's computer.

Depository libraries and librarians will continue to fill the needs of a large majority of the American public that needs access to Government information but is unable to attain it through their own personal resources or expertise.

Although they will still provide traditional assistance to their libraries' historical collections, librarians will also be expected to assume new roles. For example, in the print environment, librarians were expected to assist patrons in locating publications, but not teaching them to read. In the electronic environment, the librarian may need to turn on the computer and familiarize the user with a myriad of software packages and locator tools before they can actually assist them in finding information.

4. With copying machines, in-house printing operations, high-tech "copiers" known as Docutechs, which are really printing machines, small-print job decentralized authority, and numerous statutes exempting specific agencies from Title 44 for specific purposes, the Government has not been clearly operating within the spirit of Title 44 since even before the advent of the digital age. Now, everyone with a PC has potential printing/publishing and dissemination capability. There is no doubt that more information is going out in some format or another to the American public than ever before. I am interested in seeing some logic and technology applied that will make that information more uniformly available, rather than a hit-or-miss proposition. Is there a risk, in attempting to find and lock in standards for Government information, that Government will lag so far behind technological advances that it isn't in the public interest, either for access purposes or cost? The challenge seems to be how to capture information without stopping progress or in any way discouraging technological advances.

Should we be approaching the more complex but wider variety of choices for producing information in the "old" way--i.e., centralized control with exceptions--or should we be looking for a new model to insure general public access to Government information?

Would you find a private-public technology group, such as that offered by Dr. Wulf of the National Research Council, helpful in identifying how best to assure some uniform method for locating, finding, and retrieving information, regardless of format?

We feel that the Government should encourage the use of several standard formats based on the best current practices in the private sector through use of private sector hardware and software. The Government must stay current with technology and must refresh and migrate its information to avoid technological obsolescence. However, in order to provide for the most efficient use of its information products, the Government should work to achieve a greater degree of standardization than now exists and promote the adoption and use of open systems standards through the entire life cycle of information products. We will propose that an assessment of standards for the creation and dissemination of Government electronic information be conducted as a follow-on activity to our recent "Study". We are planning on accomplishing this as a joint effort with the National Commission on Libraries and Information Science (NCLIS) through an interagency agreement. Our approach will be that the FDLP will provide funds and NCLIS will handle contracting for the assessment. In this regard, NCLIS will be determining the resources to be used and may find the services of a private-public technology group such as the National Research Council to be appropriate. We met recently with the Deputy Archivist of the United States, Dr. Lewis Bellardo, and he indicated that NARA would be interested in participating in this standards assessment. A useful outcome of this assessment would be the identification of a single set of standards or requirements which would enable agencies to comply with the FDLP and NARA in one action.

One of the results of the "Study" was to affirm the value of a centralized coordinating authority for the FDLP, to identify, acquire, catalog, and arrange or permanent access to Government information. The Superintendent of Documents' role as the "onestop shopping" point for depository libraries is more valuable than ever in the increasingly-distributed information production environment. The "Study" and the "Strategic Plan" contained as Exhibit 1 outline the "new model" for general public access to Government information. The proposed revision to Chapter 19 of Title 44 which we will provide shortly will implement this "new model."

5. Your report suggests that only if Federal agencies find compliance easy and not costly is their voluntary compliance likely. Have you specific recommendations that would motivate better voluntary compliance with public information dissemination? How might you contemplate enforcing compliance? Does there need to be an Inspector General of information dissemination?

It is felt that the GPO must not impose format requirements on agencies, if we expect to have voluntary compliance. We stated in the report that we would reformat information to make it available through the FDLP (when it is feasible and costeffective) and thereby relieve agencies of the burden of preparing their products to fit the needs of the FDLP.

Compliance with Chapter 19 of Title 44 is an increasing problem for print and other tangible products. However, with electronic information products which will be made accessible remotely via agency Internet sites, the issues will be different and hopefully, with the exception of the cost-recovery services discussed in Question 1, the problems will be fewer. The issues will be of notifying the Superintendent of Documents when new products falling within the scope of the FDLP (Section 1902, Chapter 19, of Title 44) are to be made available, or when a product is substantially modified or relocated, so the Superintendent of Documents may catalog it for bibliographic control and direct or point users to it. Also, we will want to be notified when a product is to be taken down from an agency site so we can obtain the electronic file and arrange to make the product available for permanent public access. A new problem will be keeping information in the public domain and available to depository libraries at no cost.

In the print environment, GPO had specific and reliable contacts at agencies. In the electronic environment, we are unsure who our contacts are because information management in agencies is now very decentralized. In addition, many Information Resource Management (IRM) officers are unaware of the FDLP. These situations will be addressed through outreach to the agencies.

Compliance with the FDLP has always been a problem and, as mentioned above, for tangible products, it is getting worse. For electronic products, revisions to Chapter 19 of Title 44 are needed, that will, among other things, clarify that electronic information, both in tangible format and available via an agency electronic information service, does fall within the scope of the FDLP. As requested, we will be providing proposed changes to Title 44 shortly.

6. How often does GPO meet with agency heads or senior information officials to brief them on the importance of public access to Government information and the FDLP? Does GPO aggressively seek agreements to insure public access today? Are GPO's relationships with agencies developed more on the printing

side or more on the coordination of dissemination side of the Title 44 mission for public access? How would you describe agency cooperation to insure information is not lost or unavailable?

The transition to electronic information dissemination now offers a new opportunity for GPO to reach out to Executive agencies. GPO's outreach and contacts with agency officials have been typically with printing officers and program officials in agencies. Contacts have been developed on the printing side, because historically if an agency came to GPO for printing, we were able to act to get the product into the FDLP. We are still in the early stages of identifying appropriate agency personnel (and establishing dialog with them) concerning electronic dissemination and permanent access issues.

We have had a series of meetings recently with agencies including the National Aeronautics and Space Administration (NASA), the National Library of Medicine (NLM), Department of the Treasury, the Census Bureau and others. At such meetings, we describe the services which the Superintendent of Documents can perform and the benefits to the agency of participation in the FDLP. Also, we are in the process of preparing a GPO Circular Letter to go out to Printing Officers as well as a letter to Webmasters to make them aware of the FDLP and services, such as cataloging and permanent access, that we have to offer to them.

Of course, as mentioned earlier, we are interested in establishing relationships with agencies to receive notification about new products falling within the scope of the FDLP that they choose to either not make available at their agency site or terminate access to at some point in the future.

Agencies tend to approach the issue of ensuring that information is not lost or unavailable on the basis of their legislative mandate--which is to establish regular record retention schedules with NARA. This in conjunction with Regional depositories, has worked well in the print environment. The real area of concern in the electronic age, however, is that NARA will not provide permanent access to electronic information products in the same manner as Regional depositories do for print products. This creates an information gap for the American public, who may forever lose the ability to access certain types of government information: GPO seeks to fill this void by providing permanent access to agency products, falling within the scope of the FDLP, regardless of formats. In order for this to work effectively, agencies must be "willing participants" in the process.

7. What do you see as the biggest roadblocks to information producers' ability to provide their information to the general public?

In our view the greatest impediment is not technical, financial, or legal. It is that the agencies generally see the general public as a secondary audience for their information. Most of their effort, and information product design, is geared toward their primary audience(s): agency personnel, contractors, researchers, practitioners, etc. This is the area where the FDLP can be of greatest benefit to agencies by assisting them in all aspects of making their information products available to the general public with minimum effort on their part.

Regarding the technological issues, agencies may have a target audience composed primarily of sophisticated users (i.e., scientists) familiar with advanced search engines, complicated software, or data formats, none of which lend themselves to dissemination to a general public audience. In fact, their target audience may be accustomed to a particular format that cannot be disseminated through certain technologies that allow for broad based usage, such as the Web.

Proprietary arrangements made between agencies and private industry may impede dissemination of information to the general public. License requirements and/or fees that must be paid by users of agency information present an obvious barrier to use or reuse of information. On the other hand, when the agency itself has to pick up the cost of licensing fees, they often cannot afford to extend dissemination of their information beyond the confines of their target audience. This, again, should be the role of the FDLP.

8. Could you define the difference between public access and personal copies of electronic government information publications? In discussing electronic access, concerns are stated about the costs of printing out voluminous documents from a computer. Print-outs from microfiche, photocopies of printed documents, or actual printed document individual copies, are fee-based now. Is printing out a document, or portions thereof, considered a new cost just to access digital information?

Public access to electronic Government information products means being able to locate, view on a computer screen, and make use of the information contained in the product. A personal copy means the user wants to have a copy of the product and the information therein for their own, exclusive, purposes. Traditionally users who wanted personal copies paid for their reproduction, either locally at the library, or through the GPO or NTIS sales programs.

So printing is not a new cost. However, depository libraries are concerned that printing requirements (and costs to libraries and end users) will increase dramatically with electronic information. Since most people don't want to read long documents from the computer screen, there will be more demand for printing to support the "access" function, independent of the demand for personal copies.

In addition, libraries may feel that they need to print copies of some products to include in their collections, either to ensure long-term access, or because the material is so popular.

9. In future hearings, we will examine other aspects of Title 44 and GPO, including printing operations and procurement issues. Can you provide, for the record, the costs to GPO for electronically disseminating bids, a rather recent service, and GPO's recommendations for offering an interactive electronic commerce system?

Provided in another document.

10. For the record, how many firms perform GPO-procured volume printing? What is their gross dollar volume? How many employees does each firm have? If GSA is not always cheaper and better than Federal agencies' procurement for a variety of materials, is it also debatable that GPO can always procure cheaper and faster than federal agencies?

Provided in another document.

11. How much does GPO's printer and procurer role impact federal agency compliance with GPO's dissemination role? If compliance for the FDLP is separated from whether or not an agency has gone through GPO for the publication of their information, what impact might that have on overall compliance on dissemination to depository libraries?

When an agency used GPO's printing and procurement services, no additional effort on the agency's part was required to comply

with the FDLP. Today, with many products not being produced or procured through GPO, compliance with the FDLP requires positive action by the agency. Absent this effort by the agency, the information may become a "fugitive."

The comprehensiveness of the FDLP could be improved if GPO was able to pay for copies of/access to agency information products without regard to whether they were produced/procured through GPO. In this regard, GPO would still need agency compliance with respect to pre-publication notification for the processes to work efficiently and cost-effectively with purchase of rider copies. However, this issue will diminish in importance as more information is available remotely via agency Internet sites or GPO Access. This then introduces a new set of issued as described in the response to question 5.

12. There was no question No. 12.

13. Does the Library of Congress arrange to receive publications from every major printing house in America? Does GPO mange similarly for FDLP?

The Library of Congress (LC) receives material from U.S. commercial publishing houses through the copyright deposit arrangements. There is no parallel arrangement for Government information products for either LC or the Superintendent of Documents to use since Government information is not copyrighted. However, an arrangement to ensure notification of the Superintendent of Documents of all Government information products that fall within the scope of the FDLP so that the product could be brought under bibliographic control and made available to depository libraries and the public in the most appropriate format would be of great benefit. Also, it would be beneficial to build into this process a mechanism for ensuring the authenticity of an electronic product.



BROWN UNIVERSITY LIBRARY

Providence, Rhode Island 02912

The John D. Rockefeller, Jr. Library

July 30, 1996

The Honorable John Warner, Chairman The Honorable Wendell Ford, Ranking Member Committee on Rules and Administration United States Senate Washington, DC 20510-6325

Dear Senator Warner and Senator Ford:

Thank you again for the opportunity to testify before the Committee on June 18 at the first of a series of hearings on "Public Access to Government Information in the 21st Century." I greatly appreciated the chance to offer you my perspective as a Depository librarian and as the immediate past chair of the Federal Depository Library Council.

Enclosed please find my answers to the questions for the hearing record posed in your June 24 letter. Please do not hesitate to contact me if you need additional information or if I can be of any further assistance to the Committee.

Sincerely,

Daniel P. O'Mahony
Coordinator, Government Documents and

Social Sciences Data Services

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Enclosure

Responses to Questions Submitted for the Record from Mr. Daniel P. O'Mahony, Coordinator for Government Documents and Social Sciences Data Services, Brown University

QUESTION 1. On page 4 of your written statement, you say, "in the electronic environment of the 21st century, it will not be necessary to have 53 electronic Regional [depository libraries] — indeed, in an electronic world, it will be much easier for multiple libraries to share and coordinate these responsibilities rather than having to rely exclusively on the single Regional library in the area."

Would you look to a new model for electronic government information access by the general public, or would you recommend modification of the historical model of a centralized system for location, retrieval, and storage?

ANSWER: Electronic information technologies provide us with the opportunity to enhance public access to government information in ways that are more efficient, effective, and meaningful for users, libraries, and the government. One of the most exciting prospects, in my view, is the possibility of developing new partnerships that build on the historical and current successes of the Federal Depository Library Program (FDLP), making it easier for the public to gain access to federal government information.

In many ways, electronic communications technologies can serve as a great equalizer by blurring the lines of distance, geography, and time. Users on the West Coast, for example, no longer would suffer the disadvantages incurred when hard-copy publications take several more days to arrive to them by mail. All users everywhere -- from libraries or from home -- can have instantaneous access to the same information from the moment it is made available, provided the technical infrastructure is in place to support that access. In such an environment, the definitions and distinctions among libraries become based more on the services they choose to provide rather than the collections they hold within their walls.

Libraries and other partners within the FDLP would be making a commitment to provide no-fee public access and specialized assistance to federal government information. These services would apply not only to their own physical collections but to the vast quantities of electronic government information residing outside of their immediate control. In similar ways, these services might be extended not only to their local constituencies, but to other appropriate service populations beyond their immediate surroundings. Thus, "regional" libraries or service regions might not be confined to geographic boundaries, but could be allowed to develop along other, natural, sometimes overlapping, service-oriented configurations, such as subject specialties, types of library, metropolitan or other common areas that cross state lines, or other intra-state or multi-state consortia or

partnerships. An enhanced communications infrastructure also would enable libraries to better share the electronic service responsibilities within their service area(s). A key requirement of such a system, however, would be a strong, centralized, coordinating administrator to oversee and manage these activities and partnerships, ensuring nation-wide coverage and equitable services throughout the system.

By participating in the FDLP and extending enhanced services for electronic government information to broader constituencies, program libraries take on an additional set of service responsibilities that distinguishes them from other libraries and information providers. These responsibilities are not taken lightly, and they do not come without substantial costs to the library. Appropriate support and incentives — such as training, consultation services, technical support, free access to fee-based databases, and other support — should be an integral part of the program in order to encourage and facilitate participation of libraries in the FDLP.

QUESTION 2. What other changes in the configuration of depository libraries do you envision as electronic information dissemination enables many more individual points of access to government information than heretofore were envisioned with hard-copy only access through depository libraries? Will as many depositories still be needed for non-PC owners, and for printed documents? What about historical, pre-digital age documents?

ANSWER: Any changes to depository services or the underlying system must be founded on the Principles for Federal Government Information articulated in the Final Report to Congress:

- The public has the right of access to government information;
- Government has an obligation to disseminate and provide broad public access to its information;
- Government has an obligation to guarantee the authenticity and integrity of its information;
- · Government has an obligation to preserve its information; and
- Government information created or compiled by government employees or at government expense should remain in the public domain.

Computer and telecommunications technologies will expand the opportunities for many Americans to access government information in new and exciting ways: from home, from work, from schools and libraries, from cyber-cafes, from places still unimaginable. I believe that depository libraries and their services will become even more important in this new environment in at least two ways.

First, the library as a "place" remains a significant educational institution in our culture, and it is gaining more importance in the "information age." It continues to be the one place where all types and forms of information can be

accessed simultaneously. On our campus -- where all of the dorms and offices are connected by a fiber-optics network, many students have their own computers, and computer clusters are widely available throughout campus -- still 85 percent of the traffic for our library and research databases comes from users inside the library buildings. One reason for this, I think, is that users realize (sometimes reluctantly) that everything is not online, and current and historical information in nonelectronic formats continues to be a dominant factor in their research. Another important reason, I believe, is the human connection that librarians offer in assisting users in navigating these complicated systems and multiple formats. Prof. Dennis Galletta testified to this need when he recently stated before your committee that the "most feasible model for providing electronic access would be to have welltrained librarians on hand to assist in nearly every search." Finally, for those users who do not have the necessary equipment, software, or network connections -- still the vast majority of the population -- depository libraries provide the physical facilities that allow them to take advantage of these electronic resources. (According to recent estimates, less than one-third of U.S. households own personal computers and only 17 percent of the public have access to the Internet.) Thus, depository libraries serve as the nexus where the information, infrastructure, and professional assistance come together in a supportive and impartial environment to facilitate equitable, no-fee public access to government information.

Second, depository libraries are adapting new technologies and creating new partnerships to improve public services in ways that reach out to users beyond the walls of the library. In Rhode Island, for example, the federal depository libraries have worked together with the Ocean State Free Net (OSFN), a public access community-based Internet provider, to provide citizens of the state with local dialin access to GPO Access. Thus, Rhode Islanders can take advantage of online federal information sources using their home computers and modems. GPO compiles, maintains, and provides access to the data; the OSFN supplies the computer network and technical support for local access; and the depository libraries provide the user support, training, hands-on equipment, and local assistance that facilitate the public's ability to access and use this information. Other states and libraries are developing databases, networks, web sites, and other electronic services and tools to creatively enhance public access to government information. Some of the depository services in a more electronic FDLP may look very different from "traditional" services, and other depository activities may be "behind the scenes," developing tools that facilitate access to government information but designed primarily for users outside the library. All of these services are natural extensions of the traditional role and commitment to no-fee public service that depository libraries have long fulfilled.

Thus, a more electronic FDLP could be expanded to incorporate other libraryor information-related, service-oriented organizations and institutions that share the commitment to open and no-fee public access, such as cooperative networks and consortia, free nets, other (non-depository) public libraries, and others. Opportunities for new partnerships that extend and enhance public access should be a key focus of the development of a new system and its further utilization of electronic technologies.

While developments in electronic technologies will present numerous opportunities for enhancing public services and facilitating communication among libraries, it also is important to remember that there will continue to be a compelling need to maintain and service the vast historical and printed collections that currently reside and continue to be developed in depository libraries all over the country. The unique role that regional libraries, in particular, play in providing permanent public access to these materials will not go away in the foreseeable future and must continue to be supported.

QUESTION 3. You mention in your testimony that a number of executive agency publications, such as "Big Emerging Markets," are now being published under an agreement that removes them from the requirement that a copy be provided to the federal depository libraries. Is the underlying data for these types of publications available to the public at no-fee in any other format? Can you elaborate on just how these agreements work to remove these publications from the Depository Library requirement?

ANSWER: The cases in which government information is being removed from the public domain or circumventing the FDLP are numerous and fall into a variety of categories. In some cases, such as with the Commerce Department's Big Emerging Markets, the information is available solely through a commercial source for a fee. Thus, access to this information, compiled at taxpayers' expense, is restricted to only those users who can pay for the publication containing the data. By side-stepping the FDLP, this information is not readily available at local depository libraries for no-fee use by patrons, nor is it systematically cataloged or preserved. Moreover, the data often are copyrighted by the publisher, further restricting dissemination and reuse of the original government-produced information.

In cases such as this, agencies are contracting with private publishers to print information that has been gathered, compiled, or produced at public expense. Since the actual "printing" of the publication is not done by a government agency or the costs for printing are incurred by the commercial publisher, some agencies have suggested that the publication is therefore not a "government publication" under U.S.C. Title 44. In other examples, where information is migrating to electronic format and Internet access, some agencies have interpreted section 1901 of Title 44 to exclude electronic publications, and therefore charge or severely restrict access for depository libraries to these online sources that often contain information that previously was available through the FDLP in print or on CD-ROM.

In other cases, some form of the underlying data is available to the public, often in electronic format only that is not fully usable for the public's needs. The

Current Population Reports P-20 Series publication on Hispanic population of the United States is an example of this type of situation. Data from the March 1994 Current Population Survey on Hispanic population have been released in a printed chartbook, entitled "Hispanic--Latinos: Diverse People in a Multicultural Society," available for \$15 from a commercial publisher and not distributed through the FDLP. This publication is described as a "collaborative effort between the private and public sectors: San Francisco State University (SFSU), the National Association of Hispanic Publications (NAHP), and the U.S. Bureau of the Census. The Bureau of the Census provided staff, computer resources and data, SFSU provided staff and travel costs, and NAHP provided funding for graphical layout and printing costs." The printed publication was underwritten by the Phillip Morris Company, whose logo appears on the title page opposite the Census Bureau's.

Tables derived from the 1994 Current Population Survey regarding Hispanic population are available via the Internet at the Census Bureau's world wide web site (http://www.census.gov/population/www/hispanic.html). While the data files are available at no fee, users must connect to the Internet either via a long-distance phone call, through a commercial Internet provider, or through a local community free-net where available. Printing or downloading these statistical tables from the web site can be extremely problematic. Since the tables are large and extend beyond a single screen or page, most printers have difficulty printing the entire table and cut off whatever portion of the table extends beyond the width of one page. Downloading or e-mailing these tables in electronic format also can be troublesome. Most of the files are too large to electronically mail, and the smaller files, once received, require considerable time and labor to "clean-up" and reformat in order to make them readable. Moreover, for many users, the raw, underlying data are of little use to them -- they are interested in the statistics and analyses that allow them to understand and interpret the data in a meaningful way. This kind of authoritative interpretation previously has been supplied in Census reports.

As an alternative to the electronic files on the web, the Census Bureau sells photocopies (approximately 50 pages) of the printed tables for \$25 per set. (Previously, hard-copy reports were sent to depository libraries at no fee, and additional copies were available for sale at less than \$15 per copy.) The photocopy set provides only the "bare bones" statistical tables. A descriptive analysis of the data and corresponding graphical charts are available only in the separate publication from NAHP for \$15. The charts and analysis are based on the original data in the Census tables and give patrons, in many cases, a more useful summary and presentation of the data. Thus, users and libraries now must pay \$40 to obtain the full compliment of tables, charts, and descriptive analysis originally compiled at taxpayers' expense.

These types of agreements violate the Principles for Federal Government Information noted above (see answer to Question 2). The most immediate and offensive result is that the public must pay additional costs to access information already compiled or produced by the government at taxpayers' expense. But there

are other problems as well. Publications outside the FDLP are not routinely cataloged or included in bibliographic databases of government publications, thus patrons with a need for this information will have a difficult time identifying that the publication even exists. These fugitive documents are not distributed to depositories, and thus users will not have easy access to copies at their local libraries, nor will they be able to quickly identify and locate other libraries that have copies of needed publications. Since regional libraries will not receive copies and these documents are not otherwise systematically preserved for public use, there is no guarantee that future users will have continued access to this information. Finally, when this information is copyrighted or other copyright-like restrictions are placed on it, widespread dissemination and reuse of the data are limited, and taxpayers don't get the full advantage of their investment. All of these factors combine to effectively restrict public access and use of government information.

Chapter 19 of Title 44 should be revised to provide for a definition of "government information" that includes any publication or other information product created or compiled by employees of a government agency, or at government expense, or as required by law. Also, Section 1901 of Title 44 must be broadened to include, without question, electronic government information products and services. Furthermore, the federal government must recognize its affirmative obligation to disseminate information to the public, and Congress should not rely on cost-recovery programs to produce and disseminate government information. When, however, cost-recovery is mandated, adequate appropriations and mechanisms should be in place to allow the FDLP to provide the public with access to this information at no cost to libraries or users. Without these necessary safeguards, cost-recovery programs only exacerbate the widening gap between the "information rich" and the "information poor." Adequate government-wide funds should be appropriated to ensure equitable access to all forms of federal government information for all users through the FDLP.

QUESTION 4. Has this selective availability of government publications always been a problem, and does the electronic format exacerbate the "no fee" access issue?

ANSWER: The problem of fugitive documents indeed has been a persistent one over the years. Even in a strictly print-based world, numerous federal publications escaped depository distribution due to printing at non-GPO sites, a lack of awareness on the part of the printing agency of their FDLP requirements, or economic decisions by the printing agency to limit depository distribution for fear of erosion of markets and publication sales revenue. The system generally has worked best when print or procurement orders come through GPO and depository copies are added routinely, by a rider to the print order, without any additional action, decision, or cost on the part of the agency.

In the highly decentralized environment of electronic information production and dissemination, the potential for problems with fugitive information

is far greater. Many agencies view their electronic information products as revenue producers; indeed, many statutes require agencies to recover costs for some information dissemination activities. Without coordinated no-fee access to these databases for depository libraries, the public will be denied access to an increasingly large portion of government-produced information that they, as taxpayers, have paid for already. Even when agencies make their electronic publications freely accessible via the Internet, there still is a compelling need for strong, central coordination of services to catalog and preserve this information. Otherwise, government information will continue to be underutilized or lost, and taxpayers will continue to experience frustration and confusion when searching for electronic government publications. The Superintendent of Documents' role in coordinating the library-related activities of identifying, cataloging, accessing, servicing, and preserving government information for public use is critical to ensure no-fee access to both print and electronic government publications.

QUESTION 5. It is my understanding that for every \$1 the U.S. taxpayer spends on providing government documents to depository libraries, those very libraries spend an additional average of \$3 — that shows a strong partnership for the public benefit. Can you elaborate on what the libraries are spending which makes this information more available to the public?

ANSWER: The FDLP is a working partnership between individual institutions and the federal government to provide local access to government information. Depository libraries, as service institutions dedicated to open and equitable public access, meet the federal government information needs of their local constituencies by agreeing to receive, support, and service the information products that are of interest or use to residents in their congressional district or local service area. While the actual dollar amount may differ based on the size and scope of a library's collection, each depository library expends a considerable amount of its institution's budget to support, maintain, and service its depository collection.

A depository library's commitment to public access requires considerable expenditures for professional and support staff; training; equipment, software, and supplies; cataloging library holdings of government publications; preservation and maintenance; and general overhead costs. As government information moves rapidly towards electronic dissemination, libraries are having to step up their efforts to develop the infrastructure necessary to support and service electronic information. This includes acquiring computer hardware and software, wiring buildings for Internet connection, developing and maintaining local or wide area networks and web sites, and training staff in how to use, service, and maintain new technologies. It also means increasing or shifting staff responsibilities, since assisting patrons with computer-related sources oftentimes is much more laborintensive and time-consuming than traditional reference services. It should be noted that these activities to support electronic information are, for the most part, in addition to traditional print-based services already performed by depository libraries

and which will continue to be needed. The result of all of these efforts is a system where local users have enhanced access to government information in all formats — a system that enables the public to take full advantage of the information resources of the federal government in a local environment that has the necessary technical infrastructure, user assistance, and professional expertise.

Brown University Library is a mid-sized, academic library and selects approximately 50 percent of the items available through the FDLP. Brown is one of twelve depository libraries in Rhode Island, and, as selective depositories, we all work closely to coordinate our collections and services for public access. We estimate that the library's expenditure to support depository services at Brown University is more than \$280,000 per year.

A full-time professional librarian, a full-time computer specialist, 2.5 FTE support staff, and 3-4 part-time student assistants (1 FTE total) are assigned to the Documents section at a yearly cost of \$171,780. In addition, the Library spent more than \$1,800 on travel and outside training costs for the Documents staff this past year. Much of the training was focused on specialized electronic products and services, an area that will continue to need greater attention in the future.

The Library budgets \$45,000 per year to purchase finding tools, indexes, databases, and other materials which facilitate access to the depository collection, or to supplement, maintain, or preserve depository materials. For example, the Library subscribes to the Congressional Information Service (CIS) indexes for congressional and statistical information, and a commercial CD-ROM version of the Monthly Catalog to U.S. Government Publications. In addition, we periodically purchase microform segments of the 19th century U.S. Serial Set, or acquire preservation copies of older decennial census reports, to replace these fragile and deteriorating documents and preserve the information for future users.

The annual expenditure for equipment in the Documents section is approximately \$5,000. This allocation is used for the purchase of microform storage cabinets, computer workstations, shelving, and other equipment necessary to house, preserve, and access government information. This amount represents the basic annual allocation only; other costly purchases or support activities that do not occur on an annual basis are funded as necessary. (For example, it cost more than \$70,000 to rewire the Documents and Reference areas of the Rockefeller Library in the summer of 1994 in order to provide Internet access for all public computer workstations.) General building and overhead costs (heat, lights, janitorial service) for the Documents section of the Rockefeller Library amount to \$25,090. This represents approximately 5 percent of the total overhead for the building, which contains 186,700 square feet. Phone service, office supplies, and equipment repair costs for the Documents section is \$2,440 annually.

The Library also supports a substantial collection of depository maps (approximately 97,000) which are housed in the Sciences Library. The total annual

costs to maintain and service the map collection, including overhead, staff costs, equipment, and supplies, is approximately \$23,570.

In total, Brown University, a private institution, devotes approximately \$280,550 to the maintenance and servicing of its U.S. Government Documents section each year. This is a *current* annual cost; this figure does not attempt to take into account the considerable assets accumulated over previous fiscal years that are essential to support the depository services, including shelving, other computer and microform equipment, large microform collections, local area computer networks, and computer databases and specialized software. Further, it does not include any portion of the University's overall licensing costs for various computer software packages used in support of depository services (e.g., word processing, database management, geographic information systems).

This figure (\$280,550 or roughly 3 percent of the library's overall budget) is consistent with costs incurred by other mid-sized academic libraries that select a similar level of depository items (see "Costing Out a Depository Library: What Free Government Information?" by Robert E. Dugan and Ellen M. Dodsworth, Government Information Quarterly, volume 11, number 3, 1994, pp. 261-284). As a result of these expenditures and their corresponding services, students and faculty at Brown, businesses and individuals in the Providence community, and citizens of Rhode Island have enhanced, local access to government information. Over 10,000 times a year, library users at Brown take advantage of government information resources directly related to the FDLP.

Libraries selecting higher levels of depository items and regional depositories are spending considerably more than our library — the University of Kentucky, a regional depository, has estimated their annual expenditures at approximately \$1 million. According to data collected by the American Library Association in FY 1990, the combined expenditures of the most active 6 percent of depository libraries exceeded GPO's total appropriations for the entire FDLP that year. (See "Statement of Katherine F. Mawdsley," in The Government Printing Office Improvement Act of 1990, Hearings held before the Subcommittee on Procurement and Printing of the Committee on House Administration of the U.S. House of Representatives, Washington, DC: U.S.G.P.O., 1990, page 86.) Smaller depositories, of course, may be spending less, but their expenditures are still significant in proportion to their overall library budgets.

QUESTION 6. The location, cataloguing, retrieval and storage of federal information is critical if we want to enable real public access to their government. How fast do you think GPO, the depository libraries, the federal information producers, the private publishers and producers of computer software/hardware, and academia will be able to come up with common formats, standard cataloging, standard searching tools, tutorials, etc., necessary for logical searching, retrieval and usage?

ANSWER: This question speaks to some of the most critical components of a successful electronic FDLP. In my view, the electronic FDLP of the future must focus on three key areas: (1) providing high-quality, comprehensive bibliographic control over government information products and services, (2) developing and implementing common and consistent standards that facilitate access and use of electronic government data, and (3) ensuring permanent public access for government publications in all formats.

The issue of standards is central to all three of these components. Without common standards, the potential efficiencies inherent in the distributed nature of electronic information activities will be lost, users of government information will continue to experience frustration and incompatibility of systems, and federal agencies and others will be less able to cooperatively share data or manage information responsibilities. Further, libraries and the information community will be hamstrung in trying to develop support services and software for electronic government information, and it will be exceedingly difficult to contain or control costs for these support activities. Thus, it is of utmost importance that GPO carry out its proposal, in cooperation with the National Commission on Libraries and Information Science (NCLIS), to survey federal government agencies in order to determine areas where standards are needed, to identify common or de facto standards that may already be in use, and to indicate agencies' future plans for electronic publication and dissemination. This information is fundamental to planning, developing, and implementing a set of common standards and guidelines to facilitate access and use of electronic government information.

One such standard, for example, is the Government Information Locator Service (GILS), established by 44 U.S.C. 3511 and policy directives such as OMB Bulletin 95-1. GILS requires federal agencies to use the international standard for networked information search and retrieval, known as ANSI Z39.50, to describe all government-held information. GPO has moved rapidly in supporting GILS, as have some Executive Branch agencies such as the Environmental Protection Agency and the Department of Defense. Guidelines for depository libraries specify the provision of GILS-aware client software for public access to government information. GILS is also being adopted by several states and other nations, and GILS is being used as the model of a Global Information Locator Service through a G7 initiative. With active promotion of compliance by Congress and the Executive Office of the President, this essential component of the information infrastructure could become ubiquitous within a few years.

In the library and information communities, standards for information description and cataloging are quite mature and the technologies are widely implemented. GPO has been a key player in the ongoing development and utilization of cataloging standards, and should continue to take a leadership role in this area. Standards for search and retrieval systems, such as ANSI Z39.50, are also crucial. In addition, common standards and protocols for searching, while natural

complements to the packaged presentations typically found on the world wide web, are far less commonly deployed. Standards for file formats also are important and should allow for the diversity of information types and the data needs of users.

It is always difficult to predict the timetable of events, especially when it comes to the development, acceptance, and implementation of any aspect of computer technologies or the telecommunications industries. While there are some encouraging signs, overall there remains considerable work to be done in identifying and developing common standards to facilitate access to electronic government information. Regardless of the timetable, however, this is time well spent, for it will go a long way in promoting the development of software and support services; lessening the training burdens on agencies, users, and libraries; distributing life-cycle responsibilities for electronic government information to a number of cooperating partners; and potentially stabilizing or reducing the overall costs of managing and servicing electronic information. My guess would be that, given the completion of activities like the GPO/NCLIS survey and assessment mentioned above, substantial progress could be seen in this area in the next few years. However, without a concerted attempt to identify, develop, and implement common standards and guidelines, the overall goal of moving the FDLP toward a more electronic system in 5-7 years will be impossible.

QUESTION 7. As a depository librarian, what would you advise with respect to retrieving public government information between its production and the archiving decision — would you assign all short-term preservation to GPO, would you authorize an agreement between GPO and the federal agency on responsibility for short-term preservation, or have you other suggestions?

ANSWER: Ideally, the FDLP should be an integral part of every step in the life-cycle of government information. By including the concept of permanent public access through the FDLP in each of the life-cycle stages -- creation, dissemination, access, use, preservation, and evaluation -- the necessary checks would be in place to ensure that government information is available to the public today and in the future.

The importance of the information life-cycle in addressing the challenges posed in this question cannot be overstated. The fluid and transient nature of electronic information presents different problems not fully encountered in a print-based environment. Common policies, guidelines, and standards must be in place at each stage in the information life-cycle in order for government information to be consistently managed and made available for public use. (See attached: "A Framework for Enhanced Access and Dissemination of Federal Government Information: A Vision for the Future.")

In examining the issues of preservation and long-term access, it is important to remember the unique role the FDLP plays in providing permanent public access

to government publications. This role — traditionally the responsibility of the regional depositories — is not the same as "archiving" or "preserving" government documents as federal agencies and the National Archives and Records Administration (NARA) have approached preservation. In the print world, the system of regional libraries guarantees that adequate copies of government documents are readily available for permanent and continued use by the public at large. In the electronic world, it will be important to develop a system whereby government information remains readily accessible to the public in viable format(s) long after the information has served the agency's immediate or original purposes.

To accomplish this function, at least two things must happen. First, government-wide standards, guidelines, and regulations must be in place to inform and require agencies regarding their obligation to provide permanent public access to their information through the FDLP. These standards should be consistently and pervasively integrated into all relevant information policies that extend throughout the life-cycle of government information products and services. Second, a distributed system of storage and access must be developed that takes advantage of electronic technologies to ensure permanent public access to electronic government information. In this environment, electronic databases might reside at sites under the direct authority of the FDLP (government or non-government partners), or remain at agency sites in cases where it is most appropriate and efficient to do so for as long as the agency is willing and able to maintain them. When the databases are removed from agency sites, the data then must be migrated to sites within the authority of the FDLP to ensure continued and permanent public access to the information. These sites may be at agencies, libraries, consortia, or other entities with formal agreements to participate in the FDLP. In addition, it is strongly recommended that multiple or "mirror" sites be established for many government databases to handle heavy use, by-pass telecommunications breakdowns and interruptions, and facilitate current access. These alternate sites also will help to provide the necessary assurance that the information will be preserved in case of computer errors, human mistakes, or natural disasters. Redundancy of this kind is critically important in the electronic environment. Further, it may be advantageous to produce physical electronic copies of data (e.g., CD-ROMs) for wide distribution to depository libraries to ensure reliable and continued local access to the information.

This distributed nature of electronic databases further underscores the need for central coordination of library-related services to locate, catalog, access, service, and preserve government information. Such coordination through the FDLP can allow users the opportunity to fully utilize electronic technologies to "seamlessly" access government information, regardless of where it might reside physically.

A FRAMEWORK FOR ENHANCED ACCESS AND DISSEMINATION OF FEDERAL GOVERNMENT INFORMATION: A VISION FOR THE FUTURE

yblic access to government information is a basic right of the American people. Achteving the ideal of universal public access requires cooperation at many levels. omal partnerships, with mutual responsibilities and obligations must be established among the "Program Partners" responsible for creating, disseminating, accessing, using, preserving and evaluating government information. These partities are government information providers, a central coordinating government body, and information users. The emergence of new technologies resulting in new avenues for disseminating government information in electronic format has forced all partners in this process to re-examine corrent practices with an eye toward improved efficiency and increased public access. Introduction

infrastructure already coploys multiple channels for the dissemination of public information; 2) that for the pass 100 years, the Government Printing Office has administered the Federal Depository Library Program (FDLP) and centrally confirmated the printing, procurement, and distribution of depository publications, including electrone products such as CD-ROM, and 3) that within the FDLP, partnerpating inbrance make significant contributions of staif and resources toward accessing and Toward that end, members of the American Association of Law Libraries, the American Library Association, the Association of Research Libraries, and the Special Libraries Association have identified several key elements fundamental to enhancing public access to government information. In addition, they have delineated the responsibilities of each partner in the life cycle of government information. Three essential components of this process were: I) that the current information preserving Federal information.

The Future of Federal Government information

content, viability, and usability. With a diversity of providers and delivery mechanisms, many users will be able to access information directly from information producers. At the same cane, the traditional role of librarians as providers of information is expanding to also include that of informediary as users require increasingly electronic dissemination is an increasingly significant force in the future of Federal Information dissemination and access. Electronic information ofters apportunities to amount and variety of information products expands. For producers, broad and efficient dissemination may result in cost-savings and rapid feedback on information allow users, producers, and providers to interact in radically different ways. For users, the response time between information request and delivery diminishes and the sophisticated goldance in navigating a complex information environment. These developments will require a cooperative effort among all parties to ensure a successivit transition to an electronic environment.

oversee and coordinate the multiple providers of government information products and services and to guarantee continued, equitable, no-fee public access to government information. At the same time, it must be understood that government information still resides and will continue to be distributed in traditional print. Today, the Covernment Printing Office, the National Technical Information Service, the Library of Congress, and individual agencies share in the dissemination of electionic government information. The decentralized and transient nature of electronic information dissemination has resulted in a need for a "Central Authority" to formats and that for many products print will remain the required format for use. The evolution to electronic formats will not happen overnight, and the need to access and archive 150 years of traditional print material will never disappear.

Mission Statement for a Federal Dissemination and Access Program

Huilding from the concept of the current FDLP, which in some form is still virilly needed for the dissemination of traditional print and electronic products. The nation must develop a broader Federol Information Desemination and Access Program. The mission for an enhanced Federal Information Dissemination and Access Program is to guarantee equitable, no-fee access to government information regardless of format to the people of the United States of America.

Essential Components of na Bohanced Federal Information Dissemination and Access Program
The evolution of the Federal Depository Library Program to an enhanced Federal Information Dissemination and Access Program Decreafter referred to 05 The Program) must be conducted in consultation with current Program participants, information users, and others including Federal agencies, libraries, library organizations, the Depository Library Council to the Public Printer, and other appropriate groups.

- . Provide for a system of equitable, effective, no fee, effective, and dependable access/distribution of all formats of government information from all branches of In addition, any legislative changes related to the publishing and dissemination of government information must include statutory authority to:
- Provide for balance between usability and cost-effectiveness for the public, for libraries, and for government agencies when determining appropriate formats for Provide for a strong, centralized, coordinated, and managed Federal information dissemination and access program
 - publishing and disseminating government information
- Provide for oversight responsibilities and the ability to enforce agency compliance with relevant laws, regulations, and policies
- . Provide for the inclusion in the Program of all appropriate government information publications and services from multiple distributors and partners, including but Provide for funding the Program at the level necessary to comply with statutory requirements and to ensure its effectiveness and participation in the National not limited to the Government Printing Office, the National Technical Information Service, the Library of Congress, and Federal Agencies

The various stages in the life cycle of government information provide the framework to examine the rule of each Program participant in the Creation, Dissembation, exess, Use, Presenoutan, and abulation of government information. Each partner must accept and implement their respective responsibilities without regard to format. The following table provides an overview of the responsibilities of each partner in the government information life cycle. Life Cycle of Government Information

Prepared by a Coalition of Many Library Associations

PARTNER RESPONSIBILITIES IN THE LIFE CYCLE OF GOVERNMENT INFORMATION

	PRODUCING AGENCIES	CENTRAL AUTHORITY	LIBRARIES	USERS
CREATION .	Create government information in a variety of useful formats and in consultation with other program partners	Facilitate communication between Program partners in the design and development of information products and services	As intermediaties, cooperate with Program partners in the design and development of information products and services and facilitate user feedback	As primary ellentele, cooperate with Program partners in the design and development of information products and services
DISSEMINATION	Offer government information products and services through multi-faceted dissemination programs at no cost to the public through participating illuraries	Distribute or coordinate the distribution of products and aervices in a timely fashion Provide a variety of dissemination options and chemics	Work with other Program partners to ensure the timely dissemination of government information through a variety of dissemination programs	Work with other Program partners to require government information is being disseminated through a variety of cohannels and that it is sepropriate to their naces
Access	Refease products and aervices in a timely and aervices in a timely and Notify Prog. " Partners through the partners through the	Identify, obtain, or provide access to government information products and services regardless of format	Provide timely access to government information at no fee to the user regardless of their geographic location or ability to pay	Own publicly - supported government information products sorvices and therefore must sharys have guaranted access to them
	Central Authority about existing, planned. changing, or discentinued products and services	Devolop catalogs, pathfinders, and other locator systems to identify governmentinformation products and services	Share resources and expertise through interlibrary loan, document delivery, reference assistance, and electronic petworks	
	Develop GILS and other locator systems to help identify government information products and services	Establish standards and cofforce regulations that censure Program compliance	Supplement distributed Program products with commercially produced indexes; publications and equipment necessary to meet public needs	
USE	Provide documentation, software, technical support and user training	Distribute/coordinate access to government information to Program partners at no charge	As intermediaries, assist users in the identification, location, use and acquisition of government information regardless of format	Government information products and services must always be provided in usable format to the public
Preservation	Cooperate with other Program participants to ensure all information products are archived, accessible, accurate and compatible with ourrent and future technologies	Ensure that all information products are archived. 2.2 semplable, activities and and faiture technologies	Cooperato with other Program participants to consure that all information products are archived, accessible, accurate and eccepatible with current and future technologies	Must always have access to government information in well-preserved, accessible, and accurate condition
EVALUATION	Solicit and consider input from Program partners in the evaluation of government information products and services	Provide avenues for the evaluation of the Program including advisory councils. Federal agencies, libraries, and the general public	Work with other Program partoers to determine the success of the Program through formal and informal evaluation	Establish criteria and provide through formal and informal evaluation the occessary feedback to determine the success of the Program

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ALAAmericanLibraryAssociation

July 22, 1996

The Honorable John Warner, Chairman
The Honorable Wendell Ford, Ranking Member
Committee on Rules and Administration
United States Senate
Washington, DC 20510-6325

Dear Senator Warner and Senator Ford:

Thank you again for the opportunity to testify on June 18 at the first of the series of hearings on "Public Access to Government Information in the 21st Century."

My answers to the questions for the hearing record posed in your June 24 letter are enclosed. I submit them as immediate past president of the American Library Association since Mary Somerville, Director of the Miami-Dade Public Library, was inaugurated as ALA President recently at the Association's Annual Conference. I know that she will be delighted to be of assistance as you explore the complex and important issues related to public access to government information. I hope that you will continue to call on me as well.

Sincerely,

Betty J. Turock Immediate Past President American Library Association

Enclosure

Responses To Questions For The Hearing Record From Dr. Betty J. Turock, Immediate Past President American Library Association

1. You are a strong advocate of the Federal Depository Library Program, and basically see it as a sound system.

Technological changes sometimes fit into the old system, while sometimes a new system is created for a new technology.

In the closing paragraph of the May 24, 1996 comments by the American Library Association (Task 10A) to GPO's Study, this was said:

"The challenge faced by agencies, the Congress, and depository libraries is to develop a new model for access to electronic government information."

As President of the American Library Association, would you like to elaborate on this idea of a new model?

Answer: As President of the American Library Association, one of my first initiatives was to convene a Forum on Government Information Policy in July 1995. Representatives of several library associations developed a working document, "Model for 'New Universe' of Federal Access and Dissemination," which provides the basis for ongoing discussion on the evolution of the Federal Depository Library Program in an electronic information age. The model, a reference document to be circulated widely, is intended to spark discussion and provoke feedback to the library associations.

Two preliminary proposals are embodied in the model: (1) to reconceptualize federal information access and dissemination responsibilities; and (2) to reinvent the current federal Depository Library Program as a federal/state/local library partnership program.

The first involves the evolution of the Superintendent of Documents into a new Chief Federal Information Dissemination Officer, responsible to a Steering Committee constituted from all three branches of government, and charged with operational, but not policy-making authority for implementing applicable laws and dispensing appropriated funds. The Steering Committee would be the core group of a larger Coordinating Council composed of high-level representatives of federal agencies with explicit information dissemination missions from all three branches. In the reinvented Depository Library Program, partner libraries would develop a state plan to better meet user needs, delineate partnership agreements for access to government

information, and share access/collection responsibilities based on subject strengths or geographic considerations.

A copy of the model is Enclosure 2.

2. How would you describe the "life-cycle" differences between electronic information and that of traditional formats like paper and microfiche? Would you agree that electronic information production and dissemination is bringing vastly greater amounts of government information to more people than ever before in history?

Answer: A. I consulted with colleagues in the ALA's Government Documents Round Table who assisted me in comprehensively differentiating the "life-cycle" differences of electronic information and traditional formats. The differences of importance are:

Creation:

Paper/Microfiche--

- Standards for production are well understood;
- For paper, nothing is needed beyond the object itself to use it (e.g., books);
- Technology is simple to use and does not require expert help (e.g.,
 - microformats);
 - Format is suitable especially for static content, for popular dissemination (e.g., doctor's office pamphlets), and for long texts of permanent importance.

Electronic--

- Standards are required;
- Many layers of hardware and software are also required to be usable;
- Content is easily altered;
- Format is suitable especially for dynamic content, for large numeric files, for data that must be disseminated quickly, and for ephemeral matter.

Dissemination and Access:

Paper/Microfiche--

- Is not easily transferred from one place to another;
- Must be physically distributed, (i.e. duplicated and sent);
- Library "owns" and houses the object;
- Access depends on "intellectual" organization, (i.e., a catalog or listing available
 to the user), the physical presence of the piece, and for microforms, the presence
 of a reader-printer.

Electronic--

Content resides in the technology at one location;

Content is easily distributed, trans erred, replicated, and also altered;

Access depends on "intellectual" organization (e.g., a locator, catalog, browser, etc.) and the purchase of bardware poffware and telecommunication.

etc.), and the purchase of hardware, software, and telecommunication

connections.

Use:

Paper/Microfiche--

One user per object, number of users limited by number of objects;

Library service is concentrated on locating (e.g., cataloging, reference searches)

· and explaining content;

Long-term access no different from current access.

Electronic--

 Multiple users per file, numbers of users limited by capacity of server on producer's end, the capacity of the telecommunications, and by number of

workstations at the user's end;

Easy to download and re-use, easy to manipulate;

Library service required that either helps the user know how to use the

technology or provides experts to help with the technology as well as the

content.

Preservation:

Paper/Microfiche--

Bulky, expensive, in multiple sites;

Environmental controls needed;

Static medium--integrity, authority maintained;

Future usability not in doubt (except for high acid paper).

Electronic--

Compact;

Multiple sites are desirable;

Costs dependent on level of service provided;

Startup costs are particularly expensive;

Long term access depends on continual migration to new media as technology

changes;

 Difficulty of maintaining authority and integrity of files that are easily changed or might deteriorate over time.

Evaluation:

Paper/Microfiche--

- Slow process of feedback from user to producer;
- Slow and difficult to change items based on feedback.

Electronic--

Interactive mechanisms for rapid feedback;

Change is easily effected;

More for users to communicate about--content, interface, software, etc.

B. Concerning the question about whether "electronic information production and dissemination is bringing vastly greater amounts of government information to more people than ever before in history", I would observe that the potential is there, but we are no where near reaching that potential as yet. New technology threatens to widen the gap between the "information rich" and "information poor" even as it promises to revolutionize how we live, learn, work and govern. Statistics such as the following underscore the need for policies to ensure that libraries offer equal access to electronic information for all Americans:

- Fewer than one in three U.S. households own a computer. Those living in rural
 areas and central cities are least likely to be connected.
- Families with incomes over \$50,000 are five times more likely to have access to computers and ten times more likely to have access to online services than other families.
- African-American and Latino school children are less likely to have access to computers, both at home and at school, than other children.
- 3. Your testimony and earlier statements of the American Library Association, GPO, and many others, identify continued, historical "no fee" public access to federal information as a major and common tenet that must be maintained in electronic information.

As a matter of policy interest, how are U.S. libraries coping with digitized state and local government information?

Answer: According to documents librarians, American libraries are coping with digitized state and local government information with difficulty. Librarians are working at the state and local level, trying to get access for the public, encourage better use, and avoid duplication. Some programs at the state level are exemplary, like California's legislative program. But currently, the situation is chaotic without central coordination as librarians and the public seek information from thousands of different levels of government in widely varying state, regional and local programs. At this point, no one appears to have a handle on it. Of particular concern is that most libraries do not have access to those state and local government sites that charge fees. Librarians believe that the federal government should be a model for states and localities.

4. As electronic dissemination becomes more available and acceptable to the average citizen, what changes does ALA envision in the configuration of libraries?

Answer: Libraries have always connected people of all ages and backgrounds with the resources they need for their education and enjoyment. This role is more critical than ever in the new era of electronic information. At a time when only one of three American households owns a computer, our nation's public, school, college and university libraries are uniquely positioned to serve as the public's on-ramp to the information highway--a place where all people can tap into new technology with the expert assistance of a librarian. Libraries that are online will support equal access in many ways. These include:

- providing free public access to vital information resources;
- teaching people of all ages to use new technology;
- serving as a hub for their community's electronic information;
- making collections accessible online in their communities and around the world;
- staying abreast of new technology;
- advocating free and open access to electronic information.

Unfortunately, the high cost of technology makes it difficult for some libraries to keep pace. The number of libraries connected to the information highway is growing rapidly thanks to the leadership of librarians and support from savvy communities. But there is still a long way to go before equity is achieved. A new infusion of support from both public and private sources is needed if Americans are to enjoy the same access to information in the next century as they do today.

5. Federal agency data bases being managed by private sector interests is a growing trend. Could you elaborate on what issues are involved with contractor-managed US government. information that are of particular interest to libraries?

Answer: In an authoritative article, "Information Drought: Next Crisis for the American Farmer?", in the June 15, 1989 issue of *Library Journal*, Nancy Kranich, Associate Dean of New York University Libraries, and a member of ALA's Executive Board, addressed this question. Her article acts as a guide to elaborate on the issues involved with contractor-managed federal government information that are of particular interest to libraries. The list of issues, although not exhaustive, include:

1. Cost. As a rule, contractor-managed federal government information is distributed through commercial systems where subscriptions, hourly connect charges, and licensing fees are high, and often unaffordable for many libraries. A shift to contractor operated dissemination of government databases would likely limit public access to only those with the ability to pay for printing, copying, or buying access to government databases. These cost issues were a primary reason for ALA's support for the enactment of the GPO Access statute (PL 103-40). ALA wants

to ensure that the American people have no-fee public access to government databases through the Federal Depository Library Program.

- 2. Who owns the information? Works created by U.S. government employees in the course of their employment are in the public domain. As a result, any individual or company is free to reproduce government information. If they add value, they can copyright those enhancements, although not the information itself. In electronic formats, it is difficult to separate the proprietary component of a database from the public information. As a result, contractors managing federal government information could attempt to restrict reproduction of public information that is available with enhancements in the databases they control, inhibiting researchers and others from downloading and analyzing data that is in the public domain.
- 3. Public access and dissemination. The federal government has an affirmative obligation to provide public access and to disseminate federal information. The private sector is under no obligation to make government information available to the American public at an affordable price, nor to keep that information easily accessible and readily available. Often when the management of federal government information is contracted out, the government's responsibilities are abrogated.
- 4. Future access. Electronic technology makes it possible to erase documents long before a cumulative record can be assembled or before the historical value can be ascertained. Obsolete electronic equipment can also impede retrieval of government records. As contractors take over the management of computerized government databases, the public record increasingly may be imperiled unless appropriate action is taken to assure the preservation and retention of electronic databases and records for future use.
- 5. Preservation. We believe that long term permanent access and preservation to government databases are the responsibility of the government. These issues are critical when the government manages its own databases, but are particularly crucial for contractor-managed databases. The questions are very basic ones: first, how do we assure that electronic government information will be available and usable next month, next year, or in twenty-five, fifty, or even a hundred years from now; and second, who will be responsible for ensuring long-term permanent access? Unless these questions are answered, we risk having our national historical records disappear and the advantages of electronic information nullified.
- 6. Copyright-like restrictions and restrictions on secondary distribution. Some agencies are imposing copyright-like restrictions on electronic information. Worrisome patterns are already apparent; for example, in the case of agencies restricting the downloading of information or its electronic re-transmission. This is an egregious barrier not only to the public's current and long term access to information but also to innovative and creative forces in the private sector to develop enhanced products and services. For example, the National Technical Information Service has proposed that depository libraries could have access to certain NTIS databases, but that the libraries would be asked to become watchdogs to ensure that these electronic materials

do not leak out into the public domain.

- 7. Confidence level—integrity and authority of the data, quality of the data base. Questions about permanent public access to official electronic government information are raised when contractors operate government databases. Authenticity must be established; persistent identification and description of government information must be provided; identification and implementation of standard formats for public dissemination must be established; and the currency of the electronic information available from contractors must be ascertained.
- 8. Bibliographic control (i.e.--cataloging and locator services). Contracts to manage government databases often circumvent Federal Depository Library Program distribution. When government information falls outside the FDLP, it becomes much more difficult for the public--and libraries on their behalf--to find it, to access it, and to use it. No guarantee exists that intellectual access will be provided, i.e. the information will be cataloged and preserved, as it is currently through the Government Printing Office library program.

Enclosure 2

Working Document August 4, 1995

MODEL FOR "NEW UNIVERSE" OF FEDERAL INFORMATION ACCESS AND DISSEMINATION

Preliminary Results of Forum on Government Information Policy July 20-21, 1995 Sponsored by American Library Association

The Forum was convened to seek consensus among the nation's principal library organizations as to whether (and, if so, how) federal information policies and structures should be changed in order to maximize the amount, quality, organization, accessibility and dissemination of federally generated or maintained information made available to the public through the nation's "federal depository," and other, libraries. The participants' analyses and preliminary proposals, in the following form, are here presented.

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I. RECONCEPTUALIZE FEDERAL¹ INFORMATION ACCESS AND DISSEMINATION RESPONSIBILITIES

In keeping with the United States' long-standing legal tradition of free and equitable public access to government information, and libraries' unwavering commitment to that principle, the following model has been devised to assure that changing information technology enhances such access:

A. GOALS

- specifically identify aspects of current information dissemination policy which require revision and/or improvement
- specifically identify opportunities for improving and increasing public access to government information afforded by digital and other emerging dissemination and retrieval technologies
- increase public awareness of the availability of government information and public advocacy in support of maximizing its availability and ease of use
- increase and expand cooperation within and among government agencies in furtherance of government information dissemination
- increase awareness, within government, of its critical information dissemination role and responsibility
- 6. improve, and increase the number of, government information "gateways"
- acknowledge the need to involve all information "players" (producers, supporters and disseminators) in reconceptualizing government information dissemination policy
- 8. explicitly articulate how such "players" will contribute to the development and implementation of such policy
- 9. define the Federal role in coordinating the information dissemination activities of all relevant government agencies and "actors"
- define the role of Federal agencies in informing the public of the means to obtain government information
- achieve the widest dissemination of government information through the use of appropriate technology

 $^{^{\}rm 1}$ "Federal" in this document includes all three branches of government—legislative, executive, and judicial.

- 12. achieve the broadest and easiest accessibility of government information
- 13. improve the organization and identification of electronically available government information (including cataloging, indexing, and abstracting) to better facilitate public and research use
- 14. improve the "usability" of electronically available government information
- 15. assure and facilitate access of the disabled to government information
- B. GOVERNMENT INFORMATION ACCESS AND DISSEMINATION: "THE NEW UNIVERSE"
- Endorse, in concept, the evolution of the Superintendent of Documents into a new "Chief Federal Information Dissemination Officer" (CFIDO) responsible to a "Steering Committee" constituted from the legislative, executive, and judicial branches of government (see discussion below), and charged with operational -- but not decision-making -- authority for:
 - -- implementing applicable laws, Executive Orders and coordinated government information dissemination policy;
 - dispensing appropriated funds to federal agencies for information dissemination and other Congressionally authorized purposes
- Create by statute a government information "Coordinating Council" comprising high-level representatives of Federal agencies with explicit information dissemination missions (examples include but are not limited to the Government Printing Office Superintendent of Documents, National Technical Information Service, Defense Technical Information Center, Library of Congress, National Library of Medicine, National Agricultural Library, National Archives and Records Administration, Educational Resources Information Center, Department of Energy Technical Information Center), and representatives of the Office of Management and Budget, the Supreme Court and Administrative Office of the United States Courts, and the Legislative Branch
- 3. Charge the Council, by statute, with:
 - -- setting standards, issuing regulations and negotiating agreements pertaining to access to, and the dissemination of, information to libraries and the public;
 - -- assessing and evaluating the effectiveness of federal information dissemination programs;

- -- assessing and evaluating the adequacy of federal information archiving and preservation policies and practices (including the accessibility of information collected by discontinued agencies and offices);
- -- formally and regularly reporting to Congress and/or the Executive Branch on:
 - the scope and state of federal government information dissemination;
 - anticipated information dissemination needs;
 - recommendations for creating or modifying applicable law or policy pertaining to government information dissemination;
 - recommendations for instituting or modifying Congressional, Executive Branch, and/or Judicial information dissemination policy or practice;
- 4. Constitute, by statute, a Steering Committee from the membership of the Council comprising one representative from each of the three branches of government (legislative, executive, and judicial) and empowered to:
 - -- sit for a term of years;
 - -- recommend candidates for Chief Federal Information Dissemination Officer to the appointing authority;
 - -- direct the CFIDO to implement regulations and standards duly adopted by the Council;
 - -- such other related functions as Congress may authorize
- II. REINVENT THE CURRENT FEDERAL DEPOSITORY LIBRARY PROGRAM: A FEDERAL/STATE/LOCAL LIBRARY PARTNERSHIP PROGRAM

Recognizing that libraries and librarians have existing human and institutional networks, and a commitment to providing access to information, the Partnership addresses the following:

A. GOALS

 design a system of equitable, no fee, efficient, and dependable access/distribution of electronic and other formats of government information from all branches of government through a partnership of government, libraries, and others

- forge an easily-accessible information link between citizens and their elected representatives, to enhance economic development, citizen empowerment, and participation in the democratic process
- incorporate rapidly changing information and communication technologies that serve the public's multiple levels of skills and format needs for government information
- empower state and local libraries to design their own systems, in partnership with the federal government, to meet user information needs
- reduce federal requirements and increase state/local flexibility to reduce costs, increase efficiency, and better serve the public
- ensure that expertise and resources are within easy geographic reach of all the U.S. public
- incorporate library and librarian strengths in helping the public locate, use effectively, and customize to their needs current and historic government information in all formats, plus additional relevant library and information resources
- address archiving and preservation issues through state and national cooperative plans, in partnership with the federal government, especially for preservation of electronic information
- support increased training for staff and public to assure efficiency and expanded access
- provide for accountability for measuring and evaluating levels of access for the public, and for evaluating the usefulness of government information products
- 11. make the library partnership program an asset and an incentive for federal agencies to partner with libraries and participate willingly in a federal coordination effort

B. FEDERAL LEVEL

- Coordinates dissemination and availability of federal information, working with all government agencies and information providers
- Develops catalogs, pathfinders and other locator systems to identify government information products and services
- Ensures archiving and preservation of federal information
- 4. Establishes criteria for state plans

 Provides incentives for program participation, and for local development of high quality access tools

C. NATIONAL, REGIONAL OR CONSORTIAL PARTNERS

- Develop agreements with central authority and government agencies to ensure permanent archiving and access for electronic information resources
- Accept responsibility for comprehensive collections and/or specialized expertise in subject areas or formats and provide support for program partners nationwide
- Cooperate with federal agencies and other libraries in acquiring, maintaining, providing access to, archiving, and preserving government information

D. STATE - LEAD LIBRARY AND/OR LIBRARY AGENCY

- One or more major libraries, in coordination with state library administrative agency (which may in some cases be the lead library), takes responsibility for developing state plan for public access to federal government information
- Involves current federal depository libraries (or partner libraries in future) and other appropriate groups in development of state plan
- Coordinates designation of continuing and new library partner members
- 4. Facilitates intrastate and intra-regional communication
- Coordinates training and technical assistance for library partnership members
- 6. Communicates with federal central authority

E. LOCAL - PARTNER LIBRARIES

- Partner libraries in every congressional district, officially recognized by members of Congress
- Public, academic, research, state, federal, school, law, medical, court, special, and private libraries and library consortia throughout the states and territories may participate
- Partner library services and responsibilities reflect varying user needs, library capacity, and state plans

F. ELEMENTS OF STATE PLANS

- Designation of partner libraries by congressional district
- Provision of specific steps for meeting government information needs of local users including users with special needs
- Delineation of partnerships between partner libraries and other agencies or entities that create and/or provide access to government information
- Sharing of access/collection responsibilities, both current and historical, based on subject strengths of libraries or geographic considerations
- Identification of government information holdings through online catalogs, union lists, and other locator systems
- Integration and improvement of existing resource sharing/document delivery agreements
- Provision of opportunity for all partner libraries to provide basic electronic access
- Coordination of training for staff and public in the use of electronic information resources
- Provision of enhanced services for access to complex electronic products requiring special software and/or equipment
- 10. Incorporation of library arrangements within the state/region for national level archiving and preservation of government information
- 11. Encouragement of local/state advisory and support groups
- Identification of measures of accountability for program partners
- Advocacy for citizen access to government information and citizen education regarding such access
- 14. Provision of feedback mechanisms for information creators and access providers, to evaluate government information products and services
- 15. Coordination with other appropriate state plans, including plans for interlibrary cooperation under Library Services and Construction Act, state plans for public access to state government information, and state telecommunication plans
 - -- Existing library plans meeting, or modified to meet, Partnership specifications may be used as the Partnership plan

-- The state plan requirement also may be met in whole or in part by reference to a multi-state plan or a regional plan

G. STRENGTHS OF THE PARTNERSHIP

- 1. Builds on strength of current depository library program
- Increases flexibility, emphasizes partnerships, recognizes multiple federal players, and spells out library responsibilities
- Reduces rigidity of regional/selective depository system and increases state/local responsibility
- Recognizes that transition to electronic dissemination will be gradual, costly, and never complete
- Links access to government information with telecommunication planning
- 6. Encourages coordination of library provision of federal/state/local government information, so that the source of government information is transparent to users
- Employs technology to provide access on demand when it is a more efficient alternative to housing large but little-used collections in many locations
- Enables additional libraries to be partners for electronic entry-level access for basic government information necessary for participation in a democracy
- Provides the flexibility for states/regions to develop partnership programs that may evolve in very different ways from the current depository library program

Questions from Senator Warner for Dr. Vernon

1. You seem to be a strong advocate of the Federal Depository Library Program, and basically see it as a sound system.

Technological changes sometimes fit into the old system, while sometimes a new system is created for the new technology.

In the closing paragraph of the May 24, 1996 comments by the American Library Association (Task 10A) to GPO's Study, this was said:

"The challenge faced by agencies, the Congress, and depository libraries is to develop a new model for access to electronic government information."

Would you like to comment on this idea of a new model?

2. In your testimony, you indicate that electronic government information might force libraries, or users, or both, as an "unfunded mandate," to expend enormous sums to access public information.

Does the timing of transitioning to more electronic products affect this concern, and could you expand a little more on your statement in this regard?

3. Management of federal agency data bases by private sector interests seems to be a growing trend. Could you elaborate on what issues are involved with contractor-managed U.S. government information, such as "no fee" public access, foreign ownership of contractor firms, authentication of U.S. government information, or other issues your experience might readily identify?

Christie D. Vernon

205 Lindsay Landing, Yorktown, Virginia 23692

September 6, 1996

Senate Committee on Rules and Administration Senator John Warner, Chairman Washington, D.C. 20510-6325

Dear Sen. Warner:

I am responding to the three questions which you have sent me, as a follow-up to my testimony on June 18, 1996, during a hearing relating to the GPO and the Federal Depository Library Program.

 I am not familiar with the statement about "developing a new model for access to electronic information" and I do not agree with it.

The GPO has been doing a good job of transitioning into CD-ROM and electronic formats. The GPO Access program is working well. The use of their normal distribution model, gradually to distribute the new products, makes sense to me; and the addition of on-line access fits in naturally.

As we have discussed, some things are much cheaper and easier to access in print, but large databases (for example) are best handled electronically. Experience and common sense can guide the GPO here. There is no need to grab them by the throat, as it were.

2. Yes: the timing of the transitioning to more electronic products is central to the issue of forcing "unfunded mandates" onto libraries, which are funded at the state and local levels.

To do it precipitously would, virtually, create an enormous and expensive 'peripheral printing operation.' Libraries are now gradually adding work-stations, online access, CD-ROM readers, and so on. They need several years of expanded budgets for this equipment, and for training, to be able to cope.

Even more importantly, the judgments about what is most appropriate in print, or in the electronic format, need to be made by the CPO, Congress, and the library community in concert. This community consists of small college, public, and school libraries as well as the more sophisticated large universities, which tend to be the most vocal on these issues. It should not be undertaken without thoughtful consideration of all implications.

- 3. In the matter of the "management of federal agency databases by private sector interests..." there are several issues to be considered.
- 1) The agencies should <u>not</u> give exclusive ownership of their databases to any private concern: they <u>should</u> always reserve the right of public access, as the NLM, ERIC, and others have done. The costs for access through, for example, DIALOG (Knight-Ridder) are very much lower if there also exists the possibility of direct access by the public. The Dept. of Energy has apparently lost control of the archive of its database, and thus is quite costly through DIALOG. To me this is a very important issue.
- 2) More and more of the giant information purveying companies are foreign owned and controlled: Reed, Elsevier, Aspen, CIS - and others. It is very important that your committee have the CRS do a study as to actual ownership. A "family tree" search on Dun and Bradstreet will yield the information you need. I did a similar study 10 years ago; even then the results were startling.

Senate Committee on Rules and Administration September 6, 1996

p.2

Without casting aspersions on these companies, or their employees, it is factual to state that the executive decisions and the profits will go overseas. There cannot be any real accountability to Congress or to the American citizen for the handling of this information. In testimony some years ago I said, "I think it is generally the ethic of the library community that everyone should have access to the unclassified databases...but I am uncomfortable with the idea that the electric plug which runs that database is located in the Bahamas, or even further off, and under the control of persons with no essential interest in our information, and issues surrounding it."

Thank you very much for requesting my opinion on these important matters. This letter will be FAXed today, and also mailed today.

Very truly yours,

Christie E. Vernon

Chritic Vernon

APPENDIX B1

THE WALL STREET JOURNAL MONDAY, JUNE 17, 1996

IN THE DARK

Companies have absolutely no idea how many potential customers they have on-line

By G. CHRISTIAN HILL AND MOLLY BAKER

HE BURGEONING electronic marketplace is unique for many reasons—including the fact that no one knows how big it is.

Markets in the physical world generally know how many customers they have. Auto makers, for instance, have a good idea of how many people buy cars. Home builders know the traffic at their subdivisions. But electronic commerce may be the first major market in history that doesn't have a clue.

Because of the anonymity and extreme decentralization of the Internet and its graphical World Wide Web, there is no way to be sure how many people use the medium or, most crucially, how often. About 10 million servers host Internet traffic, but no one knows how much traffic. No one is sure about the number of Web servers. Companies with Web pages can tell how many files are clicked on by visitors, but can't count the visitors or tell if they are repeat customers, unless those visitors choose to reveal that information.

The uncertainty hasn't stopped experts from estimating the size of the Internet—but it has contributed to a slew of wildly varying assessments, and some rancor between the experts making high and low guesses.

"We went from a situation a year or so ago where there were almost no numbers on Internet activity to maybe too much information that has just left people confused," says Kurt Abrahamson, a managing director with Jupiter Communications, an Internet consulting firm in New York.

Swelling Ranks?

The Internet's most optimistic promoter is Nicholas Negroponte, director of the Media Lab at the Massachusetts Institute of Technology and a longtime promoter of digital causes. He has predicted a billion Internet users by the end of the decade, a forecast he calls "conservative." He seems to think that the future ability to reach the Internet by telephones or other cheap devices will cause usage to balloon beyond what most analysts believe possible.

But that estimate seems outlandish compared to those based on actual measurement attempts. For example, the American Internet User Survey, conducted by the New York research firm Find/SVP last year, indicated 9.5 million Internet users in the U.S. (Dow Jones & Co., publisher of this newspaper, was one of the sponsors of the survey.)

The generally accepted method of sidestepping the flaws in judging Internet usage is with large, random phone polls. But some experts see shortcomings even in this process. The numbers are skewed, they say, because so many people don't know when they're actually on the Internet they're not sure if their on-line service, such as Prodigy or America Online, counts as the Internet. So, they often say "yes" when they've never left the proprietary service for the Internet, or "no" when they do so regularly

"People are still struggling with the terminology, so you don't know how accurately the surveys are being answered," says Mr. Abrahamson.

Such uncertainty plagued one of the, biggest—and most optimistic—assessments of Internet usage by random survey, conducted last summer by Dun & Bradstreet Corp.'s Nielsen Media Research unit.

Using interviews with 4,200 adults in the U.S. and Canada, Nielsen concluded that there were about 24 million Internet users and 18 million Web users in the two countries, more than double some previous estimates. The report, planned with the help of academic consultants, garnered lots of publicity, and starting in November Nielsen began selling it at \$5,000 a copy to companies interested in electronic commerce.

Then the consultants jumped ship. In December, the group, led by Donna L. Hoffman, co-di. ector of Project 2000, an electronic-commerce research project at Vanderbilt University, posted a warning on the project's Web site, saying the study grossly inflated the actual number of Internet users. After re-examining Nielsen's data, the group issued a report in April putting the number at about 16 million—or about six million below the indicated Nielsen estimate for the U.S.—and Web cruisers at about 11.5 million.

Jack Loftus, a Nielsen spokesman, says Ms. Hoffman has "sort of made a career out of trashing the report," adding that her original broadside put an end to Nielsen's sales of the report. But "we've done some reweighting ourselves," he says, coming up with a revised estimate of 19 million U.S. Internet users.

'Doesn't Really Matter'

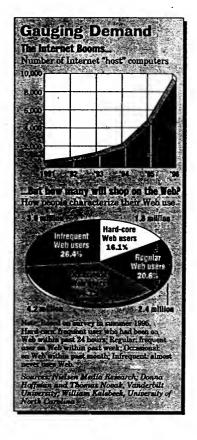
But to some observers, including the backers of the Nielsen study. Internet use is growing so fast that precise figures are irrelevant. "It really doesn't matter what the numbers are," says Asim Abdullah, executive director of CommerceNet, a consortium of companies promoting electronic commerce standards that sponsored the Nielsen study. "No one is arguing with the rapid pace at which electronic commerce is being adopted, and certainly there is a critical mass of users."

Ms. Hoffman takes issue with that line of reasoning. "One thing that is so disappointing to me is Dun & Bradstreet's argument that it doesn't matter what the numbers are, [because] they are big," she says. "How can you know where you're going if you don't know where you've been?"

Ms. Hoffman agrees that the total number of Internet users appears to be doubling yearly, and that the Web in particular is exploding. But, she adds, "I have no idea if there is exponential growth in the heavy-user category" of Web users. That's the crucial question for developing a mass consumer market on the Web.

While business-to-business commerce is already flourishing, thanks to the growth of corporate networks called intranets, consumer companies need to know if many millions of individuals will use the Web often and feel comfortable making purchases on it.

Casual users who cruise the Web once a week or month aren't going to do a lot of buying, Ms. Hoffman asserts. Marketers have to understand how big the core audience is, she says, and how to persuade infrequent users to become frequent ones. Otherwise, companies spending millions of dollars on Web sites might have to wait a painfully long time to see any return on that investment. Time Warner Inc., for ex-



ample, lost \$8 million last year on its Pathfinder site for electronic versions of Time publications, according to Forrester Research Inc., based in Cambridge, Mass.

Small Base?

Ms. Hoffman's analysis of the Nielsen data shows a relatively low number of hard-core Web users, defined as people who get on the Web every day. The pattern of responses indicates that only about 16% of U.S. Web users, or 1.8 million, can be described that way, she says. Nearly two thirds may use the Web once a month or less. From another perspective, Ms. Hoffman estimates only 1.5 million people had bought anything on the Web as of the survey date.

The lack of precision about electronic commerce's baseline allows some enthusiasts to make unsupportable claims, falsely raising expectations of an imminent surge in buying and selling on the Web, Ms. Hoffman argues. For example, she considers Mr. Negroponte's estimate of one billion users by 2000 to be "ridiculous, silly."

She co-authored a monograph for a scholarly journal last year asserting that "many of the strategic issues surrounding the commercialization of the Internet have been clouded in hype and misinformation." One possible consequence could well be a backlash against electronic commerce, with companies prematurely abandoning the Web, missing a chance to capitalize quickly on its ultimate success.

But Ms. Hoffman herself is a firm believer in the long-term potential of electronic commerce. "The data indicate that the longer people are on the Internet, the more hard-core they become," she says, "suggesting that time will take care of a lot of this."

The question is how much time.

MR. HILL IS A SENIOR EDITOR IN THE WALL STREET JOURNAL'S SAN FRANCISCO BUREAU. MS. BAKER, A FORMER WALL STREET JOUR-NAL STAFF REPORTER, IS A WRITER IN PHILADELPHIA.

APPENDIX B2

Principles of Public Information

Preamble

From the birth of our nation, open and uninhibited access to public information has ensured good government and a free society. Public information helps to educate our people, stimulate our progress and solve our most complex economic, scientific and social problems. With the coming of the Information Age and its many new technologies, however, public information has expanded so quickly that basic principles regarding its creation, use and dissemination are in danger of being neglected and even forgotten.

The National Commission on Libraries and Information Science, therefore, reaffirms that the information policies of the U.S. government are based on the freedoms guaranteed by the Constitution, and on the recognition of public information as a national resource to be developed and preserved in the public interest. We define public information as information created, compiled and/or maintained by the Federal Government. We assert that public information is information owned by the people, held in trust by their government, and should be available to the people except where restricted by law. It is in this spirit of public ownership and public trust that we offer the following Principles of Public Information.

1. The public has the right of access to public information.

Government agencies should guarantee open, timely and uninhibited access to public information except where restricted by law. People should be able to access public information, regardless of its format, without any special training or expertise.

- The Federal Government should guarantee the integrity and preservation of public information, regardless of its format.
- By maintaining public information in the face of changing times and technologies, government agencies assure the government's accountability and the accessibility of the government's business to the public.
- 3. The Federal Government should guarantee the dissemination, reproduction, and redistribution of public information.

Any restriction of dissemination or any other function dealing with public information must be strictly defined by law.

- The Federal Government should safeguard the privacy of persons who use or request information, as well as persons about whom information exists in government records.
- The Federal Government should ensure a wide diversity of sources of access, private as well as governmental, to public information.

Although sources of access may change over time and because of advances in technology, government agencies have an obligation to the public to encourage diversity.

 $6.\ \,$ The Federal Government should not allow cost to obstruct the people's access to public information.

Costs incurred by creating, collecting and processing information for the government's own purposes should not be passed on to people who wish to utilize public information.

7. The Federal Government should ensure that information about government information is easily available and in a single index accessible in a variety of formats.

The government index of public information should be in addition to inventories of information kept within individual government agencies.

 The Federal Government should guarantee the public's access to public information, regardless of where they live and work, through national networks and programs like the Depository Library Program.

Government agencies should periodically review such programs as well as the emerging technology to a sure that access to public information remains inexpensive and convenient to the public.

Conclusion

The National Commission on Libraries and Information Science offers these Principles of Public Information as a foundation for the decisions made throughout the Federal Government and the nation regarding issues of public information. We urge all branches of the Federal Government, state and local governments and the private sector to utilize these principles in the development of information policies and in the creation, use, dissemination and preservation of public information. We believe that in so acting, they will serve the best interests of the nation and the people in the Information Age.

Adopted by the U.S. National Commission on Libraries and Information Science June 29, 1990

APPENDIX B3



DEPARTMENT OF COMPUTER SCIENCE

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22903-2442 FAX: 982-2355 Wm. A. Wulf AT&T Professor of Engineering wulf@Virginia.EDU (804) 982-2223

July 7, 1996

Senator John Warner, Chairman Senator Wendell Ford, Ranking Member Committee on Rules and Administration United States Senate Washington, DC 20510-6325

Senators Warner and Ford,

I have attached brief answers to the written questions in your letter of June 24. I apologize for being a bit late and for the brevity of the answers. My life took an unexpected turn a week ago when I was appointed President of the National Academy of Engineering, and I have been scrambling to arrange my life — including taking a temporary leave from UVa — to be able to assume this exciting position. Needless to say, my answers are my individual opinion and not those of the Academy.

I hope the attached answers are helpful.

Sincerely,

W- A WITE

Answers to Written Questions by Wm. A. Wulf from the Senate Rules Committee July 7, 1996

1.... How would you recommend encouraging the advancement of technology in a manner that is fiscally prudent, without disenfranchising taxpayers from having access to electronic products?

In the long term, of course, the most important thing the government can do is invest in human capital, specifically in their education, and create an environment in academe and the private sector in which they can achieve their potential. As noted in my written testimony, I am deeply concerned that we are expecting deep cuts in university-based research on the heels of the dissolution of basic research at the major industrial laboratories. Research and graduate education are intertwined, so these reductions directly impact the advance of technology, but more importantly they reduce the next generation's human capital capable of yet further advances.

Note, by the way, that Japan has recently announced an intent to double their investment in university-based research by 2000. Their economy, as I understand it, is beset by far more problems than ours at the moment but they seem to grasp what we do not — that such times are precisely those when long-term investment is most needed.

On a shorter time scale, I think, the most critical issue is to make low cost, symmetric, high bandwidth communications widely, albeit not universally available. For reasons that are complex and I do not claim to completely understand:

- (1) the cost of high bandwidth communications has not fallen nearly as rapidly as the advances in technology would suggest are possible, and
- (2) the telecommunications companies plan to deploy technology that is "asymmetric" that is will provide vastly more bandwidth into the home than out of it.

Rather than provide only a semi-informed analysis of these two observations, let me simply observe that both are strong inhibitors of small business information entrepreneurs. I would recommend that the Senate, as a follow up to the new telecommunications legislation, consider actions to rectify them.

As a final point, with the exception of my concern about bandwidth, I am not especially concerned at this point about "disenfranchising taxpayers from having access to electronic products?" One consequence of the advance of technology is to make the equipment more affordable. By various estimates, 30% of US homes have a PC, and PC's outsold television sets in 1995. To be sure these PC's are predominantly in the more affluent homes today, but both these figures would have been unimaginable a decade ago. I have great faith that our capitalist system will be a far more effective means of providing access to the information infrastructure than anything we could plan.

SCHOOL OF ENGINEERING AND APPLIED SCIENCE

2. Do you think that the government's current on-line systems will be compatible with future interactive service options?

Yes, and no. In the medium-to-short run, there is a strong incentive on the part of both hardware and software vendors to provide compatibility. In the long run, as suggested in my written testimony, there is likely to be a new "price point" established, and current systems will not be compatible with these new systems. My crystal ball is cloudy, but if the past is a guide, the current PC price point will continue to exist for some applications (point-of-sale terminals, for example) but other functionality will shift to the new machines. Thus, for example, mini-computers still exist, but where they were once used for word processing, that function has completely shifted to PCs. In the same way, I suspect, current systems (and their price-point successors) will continue to exist, but function will migrate in an incompatible way to the newer systems.

It would be unwise to assume that today's systems will be adequate for the future. With "unpredictable certainty", I am sure that the current "world wide web" is but a step toward a much more potent information infrastructure, for example.

3. ... Could you elaborate on your statement that "our common failure has been to assume that we would use [new] technology to do the same thing -- just faster and cheaper"?

In the specific context of these hearing about the GPO, I think such a failure would be to assume that the information infrastructure will be used to distribute "documents" that would be — even could be — printed remotely.

Again, my crystal ball is cloudy, but I am sure that the advancing technology will be used to communicate more *effectively* with taxpayers. Thus, I think the function of the GPO, whether it is centralized or not, will be to improve the effectiveness of communication rather than to merely reproduce and distribute static documents. Effective communication will, I think, imply interactivity, motion and sound, active computation as part of the "document", and more. I suspect that expertise in exploiting these methods of communication is not widespread in the government (or anywhere else) at the moment.

4. Are there any specific characteristics of today's software and hardware that are likely to remain constant, even in the midst of this continuous and exciting technological change in the communications field?

If history is a proper guide, there are certainly some things that will change much more slowly than others. Much of today's business data processing is done on mainframe computers in a manner that has changed only little since the 60's.

The trick is to know what will change slowly and what rapidly — and I do not have the temerity to do that with confidence. The conventional wisdom is that it's more expensive to change software than hardware, and thus where there is a significant software investment the change would be slower. That is the explanation usually given for the slow change in business data processing, for example.

While I believe that where software investment is low the change will be more rapid—in the world wide web, for example, high bandwidth communications is a new element in the equation. The prospect of true electronic commerce, for which most business systems (including those of the federal government) are not prepared, will be a powerful motivation to reconsider he business practices embedded in our software systems. To fail to do so will lead to a competitive disadvantage.

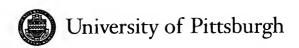
5. You mention in your written testimony that "what will be distributed" may be a more fundamental issue that "how" to distribute information. Can you explain a little more about the "what will be distributed" issue?

As I understand it, when the movie camera was first invented it was placed in a fixed position and used to record conventional plays. Now of course we have a collection of cinematic techniques, close-ups, flashbacks and the like, that make film different from, and complementary to, live plays.

In the same way, the information infrastructure will develop a collection of techniques that will make its use different from, and complementary to paper publications. One dimension of this will certainly be, as discussed above, to add interactivity, motion and sound, etc. Another dimension may be to change our image of what can be published.

Predicting the future is dangerous, of course. The following example may be entirely wrong in detail, but I hope illustrates my point. Currently it is impractical to publish, say, an agricultural bulletin specialized to a single farm. With static database information — for example on soil, and recent weather — combined with current sensor information from the network — for example the latest satellite imagery — it might be not only practical, but enormously beneficial to "compute" such a bulletin. In such a case the "publication" is specialized both to the "reader" and to the current situation.

The only way we will actually learn the answer to the "what" question is to let it unfold; the best the government can do is to avoid inhibiting its unfolding by bureaucratic or regulatory impediments, or presumptions about the way the use of the infrastructure will develop.



Joseph M. Katz Graduate School of Business

Pittsburgh, Pennsylvania 15260 Telex 199126 Fax 412-648-1693

July 8, 1996

The Honorable John Warner Chairman Committee on Rules and Administration United States Senate Washington, DC 20510-6325

Dear Senator Warner,

It is my pleasure to enclose answers to the five questions that you sent me in your letter of June 24, 1996.

If you have any further questions, please do not hesitate to get in touch with me.

Sincerely,

Dennis Galletta

Associate Professor of Business Administration Phone: (412) 648-1699 (w); (412) 366-2352 (h)

Internet: galletta@vms.cis.pitt.edu

1. Do you think the government's current public on-line systems can be adapted to enhance both the dependability and usability of future electronic government information?

There are three basic choices to make within the scope of your question. We have to choose an interface style, choose a transmission path, and develop the system of menus. (a) I believe that the best interface style to choose would be the World-Wide Web interface; in the next few years, a large proportion of the population will have experience and confidence with that interface. (b) The transmission path is beyond my area of expertise, but I'll guess that there are several government networks from which to choose. Because the World-Wide Web interface is coupled so closely with the Internet, it might be necessary to choose the Internet's transmission lines. Again, in the next few years, the difficulties with the Internet should diminish. (c) Finally, the system of menus must be determined and tested over an extended period of time whether it is used on the Internet, private networks, or dial-up central access. Testing is needed whether or not the system is constructed from the ground up or is converted from another type of usage.

2. Based on your knowledge of current users, where only a small proportion of today's population can be described as Internet users, do you think the 5-7 year time frame that GPO is proposing for the dissemination of more electronic information is a reasonable goal from the citizen's perspective?

The 5-7 year time frame seems very reasonable to me, as long as there are mechanisms to allow librarians to help citizens find the documents they need. I have seen non-computer users gain the ability to browse on the World-Wide Web with reasonable skill after a short amount of training. Therefore, the citizens can become comfortable with what is happening on the screen without extensive training. Furthermore, it is likely that people who need the information will be those who have already some experience seeking other information. Conversely, those who will have greatest difficulty are likely to be those who would never desire the information.

The biggest difficulty for all will lie in the need for searching for documents. As in a manual library, it is easy for a patron to browse a particular document once it is retrieved, but it is often very difficult to find it in the first place. The 5-7 year time frame is eminently feasible as long as there is help available and there is careful work on a searching mechanism: The search tool should be very easy to use. Some facilitative guidelines follow: (a) There should be no need for choosing a database before search terms are entered. For example, users cannot be expected to know whether their document is part of "laws," "regulations," "rules," or "decisions," even if these are very important, obviously-distinct categories to government agency personnel. Often, there are so many indexes to examine that the user is bewildered in attempting to decide which to use. The computer affords the opportunity for a single, global, searching index. (b) The tool should allow searching on two or more levels (basic, advanced, etc.). If users have trouble identifying search terms, they should be allowed to use logic such as "and," "or," and "not"--but only if they wish that option. A librarian should be on hand to help them with the logic required. (c) The tool should be selective enough to exclude irrelevant documents and comprehensive enough to include most relevant documents. Perhaps a dialog can be developed to prompt users to narrow down their search with further terms, accomplishing the same goal as providing advanced logic tools mentioned above.

3. Would you advise that printed documents continue to be produced during this transition period to insure equitable public access to government information? And, what do you believe is the future for printed documents?

Once the menus and searching tools are developed and tested, there should be a number of pilot sites for which no printed documents are provided. The sites should be chosen carefully: there should be representation from sites that are large, small, busy, relaxed, urban, suburban, rich, poor, etc. Only when extensive, iterative adjustments are made to the system based on the lessons learned from the sites over a long enough period of time, should printed documents be phased out in general. The future for printed documents is bright for the short term (1-5 years) but certainly grim for the long term (over 5 years). Researchers needing current information will find value in the availability of constantly-updated information, and will lose patience with paper documents.

4. You also state that, "librarian-led searching will probably be required for the forseeable future." In order to assure that all American citizens have equal access to public information, would you anticipate that libraries will continue their strong traditional role in information location and retrieval (you don't see the PC in a home substituting?)?

I don't believe we will ever have 100% market penetration of PCs in homes. We still don't have 100% market saturation of telephones in homes. In perhaps 10-15 years, we might be close to 100%. But the advanced capabilities of the new machines available then will probably influence the design of systems to such an extent that we won't be able to claim that we are near 100% penetration; that is, the PCs required for document searching might be more advanced than those which are owned by most citizens. We will probably always have to qualify any statistics on PC market penetration by specifying speed and operating system capabilities. The latest technology will probably always be held by a relatively small number of people. Therefore, as long as technology continues to advance, I believe that libraries will always be necessary to provide a platform with enough speed and screen size/resolution to handle complex, detailed, and large documents. Libraries will also probably be necessary for help with searching (as discussed above).

5. You raised an issue that is a difficult challenge for disseminating electronic documents: determining what information is "authoritative, trustworthy, and genuine." Could you elaborate on why this is a significant risk with electronic publishing?

Government information is probably a desirable target for electronic vandals. The fact that the Government is an official body makes it imperative that the documents be untouched. For example, it is obviously highly important that IRS forms remain accurate. If a hacker were to alter IRS forms or publications on the Government's Web server, citizens who download them would be filing improperly without their own knowledge. Likewise, it would be critically important for regulations to be accurate so that laws retrieved are the actual laws. Hackers will attempt to make alterations, so it might be important to decouple all actual electronic documents

from their retrievable electronic documents. That is, each agency can regularly compare all of its documents on a secure computer to those on a publicly-accessible computer. The frequency of this comparison can be set based on the importance of the particular documents; the frequency will determine the extent of any possible damage resulting from intruders. Paper documents in 1400 libaries would be impossible to alter in totality; the effort would be huge. An electronic document residing on a single computer would be a tempting target because the effort would be relatively small and the impact very large to make sweeping, vandalous changes.



11 July 1996

Honorable John Warner, Chairman Senate Rules and Administration Committee SR-305 Russell Senate Office Building Washington, DC 20510-6325

Dear John:

Thank you very much for the opportunity to participate in the 19 June 1996, hearing on public access to government information in the 21st century. Thank you also for your cordial welcome.

Information policy, the complexities of which your committee is considering, is at the heart of the statutory mandate of the National Commission on Libraries and Information Science. The Commission is currently developing plans to work with your Committee, the Government Printing Office representatives, the depository library community, and others to assess costs and standards issues in the transition to the electronic public information systems of the future. As a result of these plans, NCLIS will be in a position to recommend avenues of change and progress that address the public's need for access to public information.

I plan to keep in close contact with you as the Commission's plans develop. Thank you again and best wishes.

Sincerely,

Jeanne Hurley Simon

Chairperson

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United States National Commission on Libraries and Information Science

11 July 1996

Honorable Wendell H. Ford Senate Rules and Administration Committee SR-479 Russell Senate Office Building Washington, DC 20510-6325

Dear Wendell:

I was very pleased to present the views of the National Commission on Libraries and Information Science at the 19 June 1996, hearing on public access to government information in the 21st century. Thank you for welcoming me. I am sorry you could not be present for all of the hearing.

Information policy, the complexities of which your committee is considering, is at the heart of the statutory mandate of the National Commission on Libraries and Information Science. The Commission is currently developing plans to work with your Committee, the Government Printing Office representatives, the depository library community, and others to assess costs and standards issues in the transition to the electronic public information systems of the future. As a result of these plans, NCLIS will be in a position to recommend avenues of change and progress that address the public's need for access to public information.

I plan to keep in close contact with you as the Commission's plans develop. Thank you again and best wishes.

Sincerely,

Jeanne Hurley Simon

Chairperson

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United States Senate
Committee on Rules and Administration
Public Access to Government Information in the 21st Century
19 June 1996
Responses to Questions for the Record
Jeanne Hurley Simon
Chairperson

U.S. National Commission on Libraries and Information Science

1.) Your Commission is charged with looking out for the American public -- those who are browsing the Web, as well as the vast majority who are not on the Internet, to include equal opportunity of access. Your rightly point out the concerns we all share for fiscal responsibility for the taxpayers' dollars. You have conducted research on the costs of involving schools, libraries, and community centers on the Internet. Can you summarize some of these findings?

Over the past five years, the National Commission on Libraries and Information Science (NCLIS) has sponsored a series of studies relating to the role of library and information services in the emerging national networked information infrastructure. These NCLIS studies are based the Commission's statutory mandate to provide recommendations and advice to the President and to the Congress on library and information services policies needed to meet the information needs of the American people. Also, these studies are conducted on the belief that the U.S. library community's involvement and use of the Internet, World Wide Web, and network information services offers great potential and opportunity to achieve equal opportunity of access for the American public.

Since effective planning for deployment of advanced communications and information infrastructure in schools, libraries, and community centers requires current descriptive statistical information, NCLIS has sponsored survey research about the extent of public library involvement with the Internet. The results from one such project were included in the publication Public Libraries and the Internet: Study Results, Policy Issues, and Recommendations¹ which was issued and distributed by NCLIS in June 1994. Over 3,000 copies of this publication have been distributed in response to demand from the public. The report has been widely cited and serves as the basis for the work of the National Information Infrastructure Advisory

¹ U.S. National Commission on Libraries and Information Science. <u>Public Libraries and the Internet:</u> <u>Study Results, Policy Issues, and Recommendations.</u> Washington, D.C., June 1994.

Council's MegaProject II which researched the costs of involving schools, libraries and community centers in the NII.²

The Public Libraries and the Internet report also served as the basis for NCLIS briefings on libraries and the Information Superhighway conducted in Washington, D.C. 21-22 September 1994. One briefing included reports by State Library Agencies from 15 states on statewide projects involving Internet/NII services and public libraries. Further, this briefing on statewide networking was followed by a briefing focusing on federal networking activities and initiatives. The federal networking briefing session included Congressional and Administration representatives, as well as representatives from the state and local sectors, discussing ways to plan and coordinate the involvement of public libraries in the Internet.

The Commission's 1994 study resulted in the first national statistics describing the services and resources of public libraries. This information included data on public library use of the Internet, as well as information about network services, costs, applications, and usage. As a result of the Commission's 1994 survey, data elements about networking activities in public libraries have been identified for inclusion in future surveys of the Federal State Cooperative System for Public Library Statistics. This annual survey is administered by the National Center for Education Statistics with program coordination by the National Commission.

Next, in 1995, NCLIS sponsored further research into the cost elements, cost categories, and cost models for public libraries and NII technologies. The study resulted in the Commission issuing *Internet Costs and Cost Models for Public Libraries*³ in June 1995. This study addresses the public library community's need for practical cost information related to Internet connectivity and services. The realization of the need for reliable and current information about Internet costs for public libraries came from the Commission's review of the findings reported in *Public Libraries and the Internet*. While the 1994 study found 20.9% of U.S. public libraries were involved with the Internet, respondents reported difficulty in identifying and describing specific Internet costs. Public librarians highlighted the critical need

² United States Advisory Council on the National Information Infrastructure. <u>KickStart Initiative</u>: <u>Connecting America's Communities to the Information Superhighway.</u> Washington, D.C., January 1996. p. 96-98.

p. 96-98.

U.S. National Commission on Libraries and Information Science. <u>Internet Costs and Cost Models for Public Libraries.</u> Washington, D.C., June 1995.

for reliable cost information to assist in planning Internet connectivity and in developing networked library services for the public.

Internet Costs and Cost Models for Public Libraries provides cost elements, categories, models, and worksheets to serve as useful guides for communities and public libraries planning Internet connections and services. The 1995 study provides guidance for initial Internet planning and for the identification and evaluation of issues related to public library/Internet planning. By identifying five representative connectivity models and seven broad cost categories, the report offers examples for use by public libraries planning Internet connectivity and services. Cost elements relating to communication hardware and fees are included in the models developed for this study.

The value of the Commission's 1995 study of public library Internet costs rests more with the development and establishment of generic public library cost models and cost categories than with the applicability of representative costs to individual circumstances. However, the representative costs included in the models developed for the report illustrate the wide variations that are encountered in planning the networking permutations and configurations available to the public library community. These variations have important policy implications for the development of mechanisms to assure service availability on a universal basis. The costs for connecting a public library to the Internet vary with the type and level of connectivity, the services the library will support, the users of the services, and the specific local and state provisions for providing connectivity for libraries.

No one typical or generic cost model emerged for public library connection to the Internet from the Commission's study. Rather, great variances were found between different libraries located in different geographic regions and locations around the Nation. These variances between connectivity and telecommunication costs for public libraries connecting to the Internet and planning to offer patron access to advanced information services based on digital network technologies, present distinct problems in achievement of a "level playing field". Libraries in rural or remote areas serving widely scattered and diversified populations are paying much higher costs for dial-up connection to the Internet than other libraries serving more suburban or urban population areas. Thus, the Commission's cost study identifies model access for a single library using a single workstation for text-based access to the Internet. This configuration requires that the library pay an annual cost of \$12,635. 95% of this recurring cost is related to telephone lines, line charges, and Internet service provider fees. Typically, other model configurations for public libraries

accessing the Internet using multimedia workstations from multiple service points involved between 6% and 17% of annual recurring costs going for telecommunications charges.

The Commission's 1995 public library Internet cost study shows that for an initial one-time cost of \$1,475 and a recurring annual cost of \$12,635, a public library can establish a minimal level of single-workstation, text-based Internet connectivity. At a more complex level, the report describes a representative multi-media Internet public library connectivity model involving multiple-workstations at multiple library locations for a one-time cost of \$266,375 and a recurring annual cost of \$154,220. The wide variation in total initial and recurring representative costs associated with public library Internet connectivity indicate the difficulties involved with stipulating a few standard and generic cost models for deployment of advanced communications infrastructure capability in libraries.

The Commission's 1995 examination of Internet costs for public libraries is based on the belief that these community information centers will comprise an essential component of the NII in the future. The findings of the studies are intended to provide a basis for extending the benefits of advanced information services to the Nation through 8,929 U.S. public library administrative entities. The Commission is committed to providing assistance in realizing the vision of universal service that will allow all Americans to take advantage of our rich resources in libraries, information, communication, and computing technologies. Libraries have an essential role in achieving the vision of equal and equivalent access to advanced networking information services for all.

Following the 1994 and 1995 studies, NCLIS in 1996 conducted another survey of public libraries and the Internet. This survey was conducted from January-March 1996 using a sample of public libraries in the U.S. selected from a universe file maintained by the National Center for Education Statistics, Office of Education Research and Improvement at the U.S. Department of Education.

The following points summarize the results of the National Commission's 1996 survey of public library Internet involvement:

 NCLIS 1996 survey results indicate a 113% overall increase (from 20.9% to 44.6%) in public library Internet connectivity since 1994. These findings illustrate an extremely rapid rate of growth in public library Internetconnectivity.

- Preliminary survey analysis indicates public library Internet connectivity discrepancies based on size of population served. These discrepancies appear to have increased between 1994 and 1996, despite overall increases in public library Internet connectivity.
- Public libraries serving populations under 5,000 in 1996 are significantly (58.6%) less likely to be connected to the Internet than those libraries serving larger populations from 100,000 to 1 million +.
- Preliminary survey analysis indicates significant regional differences in public library Internet-connectivity and Internet-based service offerings.
- 39.6% of the 55.4% of public libraries without Internet connection indicate no plans for connecting to the Internet in the next 12 months.
- For those public libraries reporting no Internet-connections in 1996, public
 libraries serving smaller populations are more likely not be planning
 Internet connection in the next 12 months.
- Preliminary survey analysis indicates that U.S. public library Internet connectivity could exceed 60% by 1997.
- The NCLIS surveys of public library Internet involvement reveal discrepancies related to
 - ⇒ the extent of connectivity
 - ⇒ the type of connectivity
 - ⇒ connectivity costs, and
 - the provision of Internet public access services.

In smaller communities of 25,000 or less, the public library may provide the only means for the public Internet access. If public libraries serving these smaller populations are not connected to the Internet, residents may lack any means of public Internet access.

2.) Does your Commission have information on what the U.S. public libraries are doing for librarian training today in anticipation of future technology advances?

It is clear from recent NCLIS studies that public, academic, school, and special libraries are moving rapidly to take advantage of the potential offered by advanced information and communications technologies. What is not clear, however, is how well librarians are preparing to address the various economic, technical, and professional training challenges presented by these new electronic technologies. The Commission's recent studies of public libraries and the Internet have been motivated, in part, by the need to shape the various managerial, economic, technical, training, and policy issues that are raised by the integration of new electronic information technologies with more traditional library services based on printed text resources. Findings from the Commission's recent studies highlight the need to address the human resources

training issue for librarians and library staff. If libraries are unable to understand the newer advanced network information technologies, they will not be in a position to help the public to effectively realize the potential of these new services.

The Commission's 1994 survey of public libraries and the Internet found that public library responses ranked staff time to develop expertise, availability of training, and staff skills to navigate the Internet as highly important factors affecting public library Internet involvement. In fact, of all 12 factors involved in the survey question relating to factors, only the costs of Internet connection ranked higher for survey respondents. This priority ranking of training concerns was uniformly reported by libraries serving different sizes of population in the 1994 survey.

The Commission's 1996 survey of public libraries and the Internet found that costs of training and education for staff and users, as well as the availability of staff time to develop expertise on the Internet were important factors affecting current library level of Internet involvement. However, the costs associated with hardware, software, and communications all received higher ratings overall from survey respondents than those costs associated with training. But, when the various factors are compared by size of population served, it is clear that public libraries serving smaller communities identify training as a higher priority than those public libraries serving larger populations. This indicates that training in using network information services presents a potential barrier to achieving the equality of access opportunity that is the promise of digital information networks. The following table provides survey information concerning this issue in terms of operating expenses by public libraries:

Estimated Percentage of Information Technology Operating Expenditures for Internet-Connected Public Libraries by Population Served 1996

- 1) System/Server Hardware, 2) Software Costs, 3) Communications Hardware/Fees,
 - 4). Staff/User Training and Education, 5) Content/Resource Development,
 - 6) Program Planning/Management/Staffing Costs, and 7) Other

Population	1)Sys Hdwr	2)Software	3)Com Fee	4)Tng & Ed	5) Cnt Dyl	6)Plng/Mgnt	7)Other
1 million	25.7%	6.9%	10.2%	2.0%	1.7%	6.5%	6.9%
+							
500,000-	8.4%	4.2%	11.5%	4.7%	3.1%	4.5%	4.9%
999,999							
250,000-	16.0%	16.0%	12.3%	2.4%	2.0%	4.7%	8.9%
499,999							
100,000-	12.0%	12.0%	11.2%	3.9%	1.5%	2.8%	4.0%
249,999							
50,000-	17.3%	17.3%	10.4%	4.0%	4.0%	3.9%	4.3%
99,999							
25,000-	19.0%	19.0%	11.5%	5.2%	2.4%	1.8%	2.9%
49,999							
10,000-	14.9%	14.9%	7.9%	4.6%	3.1%	3.9%	5.0%
24,999							
5,000-	10.1%	10.1%	2.7%	1.5%	0.3%	1.9%	2.4%
9,999							
Less than	60.2%	5.6%	2.7%	2.2%	1.4%	0.5%	0.5%
5,000							
Overall	33.0%	15.6%	22.7%	9.1%	5.5%	6.1%	8.0%

In considering the training needs associated with electronic services available to the public from libraries, the following questions concern the National Commission and are part of NCLIS's ongoing discussion of issues affecting the involvement of libraries in the Internet/WWW:

- What do librarians need, besides computers, communication lines, software, and content to effectively provide public access to the Internet and the WWW?
- What training, education, skills, abilities, talents, new capabilities, new problem solving talents, new technical understandings, new integrative approaches, new or re-directed concepts that re-define those organizational, acquisitions, cataloging, referencing, interpreting, preserving, collocating, describing, indexing, coordinating, retrieving, pointing, arranging, ordering, naming, collecting, functions associated with printed textual materials and books, to apply these same approaches to the organization and mapping, and navigation of electronic resources rapidly becoming available in the network digital multimedia, interactive realm of the Internet/WWW.?
- What human resources, vision, and skills will it take to envision, design, and build the digital library of the future?

- Will the digital library of the future be a system of virtual digital collections, or will it consist of a coordinated and networked resource of information stores? What is the role of facilities and space in the digital library of the future?
- What is required to take advantage of the opportunities presented by electronic information networks that allow exchange of media in different formats and contexts?
- 3.) Do you believe that only "publications" should be within the purview of the Federal Depository Library Program, or, do you envision a new model for distributing electronic government information may be needed?

Over the past several months, the National Commission has been involved in discussions concerning the future of the Federal Depository Library Program (FDLP) in terms of the recently-completed GPO Study to Identify Measures Necessary for a Successful Transition to a More Electronic Federal Depository Library Program (June 1996). These discussions involving representatives from the GPO and the Administration center on the Commission's potential role in performing a series of assessment and evaluation studies to address the various technical, economic, and standards issues involved with the transition to a more electronic public information system. These studies would address transitional issues that are required for Federal agencies, the GPO, depository libraries, the private sector information industry, and, most importantly, the general public. Although still at the discussion and planning stage, the following points outline possible tangible results anticipated from work planned by the National Commission:

- 1. Definitions of the major types of government information products created by and for Federal agencies. Current practices and plans of Federal Agencies for producing and disseminating electronic information. Identification of the software utilized and electronic formats generated by the creation process in order to determine the de facto or actual standards that are in use for creation and electronic dissemination each major type of data. Identification of agency information creation and dissemination "problems" that GPO, through the FDLP, could help to solve.
- 2. Private industry will play a large role in determining future technologies that may affect standards, so it is important to determine what standards are utilized in the private sector and what is on the technological horizon. This can then be the basis for a comparison of the standards utilized by the Federal government

with those utilized by the private sector (and other non-governmental publishers) to determine if the Federal Government is utilizing the most appropriate formats. GPO can then cooperate with NARA and NISO to "educate" Federal agencies about standards utilized by the private sector and other organizations.

- 3. Identification of areas requiring additional standards development (which will then be pursued as a follow on activity).
- 4. Life-cycle cost data (quantitative and qualitative) built around the standards umbrella. This does not necessarily need to focus on attempting to gather "ungatherable" information, as proposed in Senator Warner's letter. Instead, it should focus on issues such as the economic impact of having to pay for conversion of government information products that cannot be disseminated to the public in original published formats. Also, the impact (quantitative and qualitative) of having private sector "effects" on government information, by having privately developed client software intrinsically linked to the ability to access and retrieve "free" government information products. However obtained, the community needs additional cost data about electronic Government information processes that will address questions related to cost efficiency and effectiveness. Qualitative information on cost-shifting would be useful, too, if related to constituent services at the local level. Cost data will also make it possible to show where standards can save the government money, such as by cutting down on set-up time and conversion costs.

The National Commission believes that a new model for distributing electronic government information is needed. But this new model must be developed in cooperation with the various agencies, offices, companies, libraries, and public users of public information that both contribute to and depend upon government information. This new model also must be evolutionary in development; it must not create changes through radical measures that threaten to present new barriers to public access to information. The new model must build on the access that is currently available through the FDLP for non-electronic information. Finally, this new model must recognize and accommodate the need for provision of alternate formats of information that meet the various needs of different communities and individual users. It is only through the development of such integrated new models that our government will respond to the democratic mandate for an informed citizenry.

NCLIS looks forward to working closely with the members of this Committee in this important area of policy development in the future. We plan to arrange for future meetings and discussions in the next few weeks which will refine and develop the Commission's plans for various assessment and evaluation studies.



Washington, DC 20408

JUL | 6 1996

The Honorable John Warner Chairman Committee on Rules and Administration United States Senate Washington, D.C. 20510-6325

The Honorable Wendell Ford Ranking Member Committee on Rules and Administration United States Senate Washington, D.C. 20510-6325

VIA FAX

Dear Chairman Warner and Senator Ford:

Thank you for the opportunity to answer your questions pertaining to the hearing on Public Access to Government Information in the 21st Century. I, too, was sorry that I was not able to provide you with oral testimony. Nonetheless, I appreciate that my written statement was accepted as part of the official record.

Attached are my written responses to your questions. If you or your staff have any questions, please call John Constance, our Director of Congressional Affairs, on (202) 501-5506.

I look forward to working with you in the future.

Sincerely,

LEWIS J. BELLARDO

Deputy Archivist of the United States

and Chief of Staff

Attachment

National Archives and Records Administration

Responses to the Committee on Rules and Administration

 A major concern of this Committee is the long-term preservation of government information. We have charged the regional depository libraries with that responsibility, and for printed material, preservation methods are known and readily available. Electronic information, however, poses unique problems, particularly since formats can change rapidly requiring continual "refreshing" of the information.

What experience does NARA have with long-term preservation of electronic data, and are there reliable methods for ensuring preservation in a readily accessible manner?

NARA has twenty-eight years of experience with electronic records, having established its first Data Archives Staff in 1968. The strategy NARA has developed consists of storing electronic records off-line in a standardized format that enables access across various computer platforms. This strategy expedites the migration of the records to new technologies using automated systems with the minimum of staff effort. It has also given us extensive experience migrating or "refreshing" across time electronic records through advancing technological generations. Preserving information in such a format permits the transfer of the electronic records into near-line or on-line environments when and if the records are desired.

Nonetheless, ever increasingly sophisticated and diverse information technologies and the proprietary nature of these technologies are creating multi-media electronic records and publications that cannot be easily transferred to a standardized format for preservation and access. We plan to vigorously address this issue which is a significant component of our recently issued strategic plan. Our approach will include federal and private-sector partnerships to develop and adopt standards to ensure ready access to the increasingly sophisticated electronic records that document our government's functions and activities, the rights of citizens, and the national experience.

2. The Committee received the testimony, on June 18, 1996, of Mr. Wayne Kelley, Superintendent of Documents. He described a system of electronic government information dissemination in which the source files of government information resids with the originating agency, and GPO provides only the central cataloging and locator services for that information.

Under such a system, a record copy of a GPO publication or electronic file might not exist, and consequently would not be automatically transferred to NARA. How would NARA ensure the preservation of and access to that information?

NARA's statutory responsibility is to ensure the long-term preservation and access to those records of the federal government that have continuing value. NARA fulfills this responsibility by working with agencies to schedule their records (including agency

publications) and to determine how long the records will be retained. Records of continuing value, such as record sets of publications, are transferred to NARA. Therefore, NARA receives the "record" copy of agency publications regardless of whether they are part of the Federal Depository Library System.

If a system develops in which government records only reside in originating agencies and GPO only provides cataloging and locator services to those records, then NARA will take the following two steps to ensure continued access to the essential evidence that federal government publications provide.

GPO's cataloging and locator database

We will ensure ready access to the database that GPO creates to catalog and locate publications just as NARA has determined that the *Monthly Catalog* (GPO's current online catalog) has continuing value.

Records in originating agencies

When the publication resides only in the originating agency, we must ensure that the agency maintains this "record" copy, whether it is described on the GPO catalog and locator system or not. Our current strategy is for agencies to transfer blocks of these records in a timely manner according to the agency's records schedules.

3. How would you characterize your progress in working with other Federal agencies at this time to address their long-term archiving needs?

We have made significant progress in improving the management of Federal agencies' long-term records by a more aggressive focus on electronic records issues and techniques. In our training programs, we have developed new classes and class segments on electronic records issues and information resources management. We have developed guidance on important electronic issues such as electronic mail. We are more pro-active in communicating our guidance through a program of briefings in Federal agencies, including a new briefing on "Recordkeeping in the Modern Office." In our traditional scheduling and evaluation programs, we are highlighting deficiencies in the area of electronic records. Our new strategic plan recognizes the need to work even more closely in partnerships with agencies to address their long-term archiving needs.

Our recent draft standard on recordkeeping requirements for electronic systems will, after the review process is finished, assist software developers in developing better off-the-shelf products for use by agencies. We are also reviewing major new systems involving long-term records as they are developed by agencies in order to ensure that effective recordkeeping is included at all stages of the system development life cycle.

Recognizing that communication is a critical element in the management of change, we are also using technology to share information and communicate with our customers. Through publishing standards and providing training, we are helping the development of the Government Information Locator Service. We have already made our regulations and bulletins available on the Internet and we are working now toward more electronic exchanges in the scheduling of records and the registration for our training, briefings, and conference programs. Using these tools, we can work with agencies in a much more timely and efficient way as they improve their records management practices.

4. In your testimony, you state that NARA does not want the reference burden of providing permanent on-line access to all GPO publications. However, the unanimous testimony of our panels of witnesses on June 18, 1996, was in support of a centralized source of information, so as to avoid 1,400 libraries interacting with hundreds of government agencies.

It is my understanding that the GPO Access Act anticipated such a situation and required the creation of a storage facility which would provide precisely that function—the long-term storage and preservation of electronic information in a readily accessible manner.

Would NARA be willing to work with this Committee, GPO and others to determine the most appropriate means by which we ensure the preservation of electronic information in a readily accessible manner?

Emphatically yes, NARA would be willing to continue to work with the Committee, GPO and others to determine the most appropriate means to preserve government information.

5. As you are aware, regional depository libraries are also charged with preserving government documents, in perpetuity, in a readily accessible manner. In your testimony, you suggest that it would be redundant to provide for archiving the record copy of GPO electronic information, as NARA is already charged with that responsibility. And yet, if I understand your testimony, NARA is not in a position to provide on-line ready access to non-current federal depository library documents.

Are you suggesting that in an electronic environment, depository libraries will not need to maintain these files, but can rely on NARA to provide ready access? If so, how will depository libraries access the electronic information from NARA?

As noted above, our current strategy is to accession or take custody of federal records that have been determined to have continuing value as the essential evidence of government's functions and activities. Although we are in a transition mode, our strategic plan emphasizes that our role is to ensure preservation and access. Our future strategy will focus on making sure that NARA, in partnerships with federal agencies, ensures the integrity, authenticity, and reliability of electronic records using standards so that

electronic records can be created, captured and preserved over time. Concretely, this means that NARA won't necessarily have custody of all archival electronic records. We will develop and refine standards that enables some archival electronic records to remain in agencies when feasible and desired by both NARA and the agencies. At the same time, we envision a centralized locator system so that users (depository librarians, agency staff, the public, etc.) need not query multiple sources of information.

APPENDIX C



Congressional Information Services

The Honorable John W. Warner Chairman, Committee on Rules and Administration United States Senate Washington, DC 20510

July 26, 1996

Dear Senator Warner:

On behalf of the Information Industry Association, I have enclosed written responses to the questions you submitted to me after the July 16 hearing on *Public Access to Government Information in the 21st Century*.

I want to thank you again for providing us with an opportunity to advise the Committee on a matter of great importance to my company, our industry, and the public. I realize the complexities you face in balancing all of the considerations before you in arriving at sound government information policies in the Information Age. The Information Industry Association staff and I stand ready to assist you and the Committee in its efforts and look forward to working with you as the details of Title 44 revisions are crafted.

With best regards,

Eric J. Massant

Director, Government and Industry Affairs Chair, IIA Government Information Policy

Committee

Enclosure: Responses to questions submitted by the Senate Committee on Rules and

Administration on Public Access to Government Information in the 21st Century.

cc: Senator Wendell H. Ford

A member of the Reed Elsevier plc group

QUESTIONS FOR MR. MASSANT

- 1. We've heard testimony about government agencies doing more and more printing in-house, often at greater cost than if the printing were done in the private sector. When should government printing be done in-house, and when should the government's printing be obtained from the private sector?
- 2. Title 44 currently requires that all procurement for government printing be coordinated through the Government Printing Office (GPO). Is centralized procurement by GPO more or less cost-effective than decentralized procurement by the various agencies? What other factors, such as coordination of dissemination to the depository libraries, should be considered in reviewing the procurement system for government information production? Are there justifiable exemptions from centralized procurement?
- 3. What comments might you have on Assistant Attorney General Walter Dellinger's May 31, 1996 Memorandum to GSA's General Counsel, concerning the constitutionality of certain Title 44 requirements?
- 4. There are many challenges in defining terms for Title 44. For example, "government information product" could include most of the information disseminated on agency and Committee Web pages, or it could be defined more narrowly. Each definition has significant cost implications for production, dissemination and storage of government information. Could you provide recommendations for defining the following terms:
 - "Access" versus "individual ownership/use"
 - "Useable format"
 - "No-fee access" concept versus "recovering costs"
 - "Basic" versus "value-added" format/service
 - "Publish" versus "disseminate, produce or duplicate"
- 5. "Access" to federal information and "ownership/use" of federal information through acquiring one's own copy of a document is somewhat analogous to "borrowing" a book from a library instead of "purchasing" the same book from a book store. Does your industry agree with the policy in Title 44 that the general public should have no-fee access to federal government public information, and that access should be provided through the Federal Depository Library Program?
- 6. We are all concerned about producing and obtaining information in ways that are familiar as well as affordable. Electronic information presents special challenges because of varied formats, different computer languages, multiple search engines, and changing hardware and software requirements.

How fast does industry anticipate the provision of "interpreter" technologies that would make setting government "standards" for electronic public access moot? What temporary solutions might you think industry, academia and government together can provide so the general public is not disadvantaged in accessing electronic government information in the interim?

- 7. With so many changes in communications technologies, and anticipated continued rapid changes ahead, what is "value-added" service or formatting today becomes "plain vanilla", basic service or formatting tomorrow. In examining the Federal Depository Library Program which serves the general American public, and in looking at some of the issues you raised concerning the Paperwork Reduction Act, how would you encourage government to take advantage of new technologies benefitting the taxpayer with cost-savings, wider dissemination, etc., without competing with a "value-added" service currently provided?
- 8. There seem to be a number of federal information pieces which the private sector wishes to enhance and market; there are many more federal information documents which still need to be accessible to the general public but which might not have a "market", per se, in the sales sense. What does IIA believe government's role should be in ensuring general public useable access to information products that the private sector chooses not to enhance with value-added services?

- 9. Title 44 mandates GPO run a successful depository library program. Should GPO represent the depository libraries' views on useable formats for general public access in advising information producers preparing to publish/disseminate?
- 10. In your testimony, were the concerns you presented about government authentication of official information based on information industry hopes to access the underlying data so as not to incur the costs of "detagging" said data? If official government information was provided by the government without any authentication "signatures", might not the risk of mischief be significant?
- 11. In your written statement, you recommend "Congress require libraries also undertake to inform their patrons about the importance of intellectual property rights". Is this a general concern relating to digital products being rather easily put on the Internet, or is this statement specifically relating to government information?

Your suggestion for Congressional action would seem to indicate a serious and widespread existing problem. What potential IPR violations could occur, or are now occurring, in libraries which use these private sector products?

12. Title 44 does not authorize GPO to have editorial control over government information products. Your testimony indicates the potential for such control if, as the depository libraries' recommended in the recent GPO Study on a more electronic FDLP, GPO re-formatted information for general public access.

Please assist us in determining whether there are issues of semantics or policy concerns in the use of the term "reformatting". In the context of the GPO Study on the FDLP, it is our understanding that "reformatting" related to issuing a document in a more user-friendly and/or preservable form, such as microform (if the product was originally disseminated via an agency homepage, for example), rather than restructuring a product.

13. In your written testimony you call for "flexibility" in the use of any new technology appropriations for libraries, as recommended in the GPO FDLP Study, so that libraries may purchase private sector products. What types of private sector products do libraries now use and what additional products do you anticipate will be available in the near future which would be of interest to libraries? What are the average costs of such products?



INFORMATION INDUSTRY ASSOCIATION Answers to Questions Submitted by Senate Committee on Rules: Regarding Title 44 Reform

Ouestions #1-3:

The first three questions submitted by the Committee address Title 44 issues relating to the Government Printing Office's (GPO) role as a printer. As explained in my written testimony, IIA's primary interaction with GPO is through its dissemination functions — the Federal Depository Library Program (FDLP) and the Sales Program. The Association, therefore, has not taken a position on the issues raised in questions 1-3.

However, IIA realizes that decisions regarding agency printing will likely impact both the FDLP and the Sales Program as the documents for both programs are primarily acquired by GPO "riding" agency print jobs. Recognizing this potential acquisition problem, we would reiterate that Congress should adopt sound government information dissemination rules as part of Title 44 reform to reinforce agency obligations under P.I., 104-13. Further, because the networked environment provides more opportunity for a less centralized FDLP (i.e. more access could come directly from agencies rather than through GPO or other centralized sources), there is a need for Congress to put pressure on executive branch agencies to implement the information dissemination rules encompassed in P.L. 104-13.

With regard to Assistant Attorney General Dellinger's memo, it does not address the current FDLP. Because the main tenet of the opinion is that requiring agencies to use a Legislative Branch entity to procure printing violates the constitutional separation of powers requirement, the Association believes a more important question is the constitutionality of a requirement that agencies deposit, or otherwise make available, copies of their public information to a central entity for dissemination to the FDLP.

Question #4:

IIA agrees that it will be difficult to write an exact definition of "government information products" which is neither overly broad nor too narrow for purposes of deposit and dissemination to the FDLP. A two broad definition could result in unbearably large costs to the government and could exacerbate the current storage and management problems now faced by the depository libraries. A definition that is too narrow could leave out information that is important for the general public to access. IIA would respectfully suggest that rather than trying to provide an exact definition, Congress would be better served by providing guidance to the

agencies that information that an agency determines should be disseminated as part of fulfilling its mission should be made available to the FDLP. In addition, this same data should be made available to the general public. Each agency — in consultation with its user community and congressional oversight committees — should determine what types of information to disseminate to the public as well as the most effective formats. If agencies are collecting or compiling data that are not useable, those programs should be reconsidered.

With regard to the specific terms in your question, the Association believes that all users should have access to underlying government information on an equal and timely basis at the cost of dissemination. As is the case with the FDLP, a fee waiver to the user may apply. However, it is important to remember that this does not mean "no cost." Indeed, while the depository libraries are not necessarily paying for the information, the cost of providing the information is borne either by the agency or funds appropriated to GPO. Thus, the general taxpayer is paying for information to be disseminated to the FDLP. On the issue of fees, fully self-funding government information programs that require government agencies to recover costs and act as publishing businesses may provide agencies with an excuse to impose copyright-like restrictions on government data, which is inconsistent with assuring broad access and requires charges that go beyond the cost of dissemination.

While IIA supports this expenditure of taxpayer dollars for the FDLP, we caution that in accordance with P.L. 104-13, information should be disseminated in an efficient, effective and economical manner. This means that scarce resources should be used to disseminate information products in a common, generic format to meet unmet needs. Making this information "more uscable" for a broader undefined public is not the role of the government but of the private sector which takes great pains to match new products and services with a variety of user needs. Unless GPO or another central repository can show that the information as disseminated by the agency is not accessible by the majority of FDLP users requesting that information, it should not expend resources modifying agency information.

"Basic" and "value-added" are very subjective terms and again, it is difficult to define for purposes of law what the two are. The Association suggests that guidance rather than definitions be provided to agencies. Guidance similar to that in the P.L. 104-13 which suggests that input from the private sector be regularly solicited will help avoid unnecessary or unanticipated expenditures or duplication.

With regard to GPO or any other redisseminator of government information, the primary difference between "publishing" and "disseminating, producing or duplicating" information involves editorial control. As a conduit for providing government information to the FDLP and the public, GPO should avoid making editorial decisions about agency data, an issue discussed in more detail in regard

to question 12. This is important not only to ensure the integrity of agency data, which may be affected by negligence or bad judgment, but also to avoid real or perceived political conflicts of interest. An article on page A-17 of the Washington Post on Monday, July 22, regarding a GPO "publishing" decision points out how a small, seemingly unimportant judgment can have an impact on access to government information.

Ouestion # 5:

We support the role of the FDLP in providing no-fee access to government information for users that either choose not to use other sources of that information or that do not have the means to access it otherwise. Even today, there should be no difference in the type of information a user obtains through the FDLP, as opposed to buying a copy from the agency or from the GPO Sales Program.

However, resource restrictions do necessitate that there will be some limitations on the ease with which users can obtain information when visiting a federal depository library. For example, there may be some delay in the library's receiving the information, cataloging it and placing it on the shelf. Unlike a purchased copy, the information on the library's shelves can only be borrowed for a limited time or copied at a charge. Nevertheless, the convenience in obtaining government information at a relatively nearby, central location in most cases outweighs the disadvantage of not being able to purchase a copy directly from GPO and provides an important function in helping equalize access among different sectors of society.

Finally, because this question seeks to differentiate between rules governing the use of information that is borrowed from a library and that which is purchased, IIA must add that unlike government information, which is not copyrighted, different rules must continue to apply to the use and re-use of private sector proprietary materials, even when these products and services are based largely on non-copyrightable government information. This differentiation will be as important in the digital world — if not more so — as it is in today's largely print environment.

Ouestion # 6:

As with any technological development, it is difficult to predict exactly when "interpreter" technologies of the type implied in your question will become more widely available. The rapid evolution of information technologies we have seen in the last few years shows no sign of abating. In the five to seven years during which the FDLP will become largely electronic, we can expect interpreter technologies to show a similar rapid evolution.

Interpreter technologies, with admittedly limited capabilities, are already present in the marketplace, and many of them are easily used and economically priced. I'or instance, most word processing programs that have appeared on the market in the last few years make it easy for digital texts to be manipulated from one of the dozen or so popular word processing formats into another. Certainly, most systems can at the very least transform any of the more widely available word processing formats into simple ASCII text, thereby providing an easy, usable and universal format for accessing and manipulating government information in a manner that should meet the needs of the great majority of FDLP users.

IIA would point out that this is not a situation that impacts libraries and their patrons in a manner any different from other users of electronic information, including business, government, and everyday consumers. It is a problem, however, whose solution is best left to market forces. The competitive information marketplace continues to improve the means of accessing, storing, manipulating and transferring data in the digital world.

Most importantly, the fact that "interpreter" technologies are now at a fairly basic level should not be viewed as an invitation to government involvement in setting standards in this area. Quite the contrary, to disrupt market development of these technologies by setting a standard that is likely to be adopted government-wide, would in the end disadvantage the FDLP community. Such standards are expensive to develop and must remain adaptable. Given the limited resources of government and its general inability to adapt quickly to technological change, government information providers and their users may find the technological standard adopted for the FDLP quickly eclipsed by developments in the private sector marketplace, thereby leaving both government and these users with fewer tools that they would otherwise be able to obtain from purchase of off-the-shelf, private sector technologies.

Ouestion #7:

In general, the Association supports government efforts to use modern means to make information more widely accessible and available to the public. However, using new technologies may not — as the question suggests — produce cost-savings or provide wider dissemination of information, as the question suggests. There are many issues to be considered when determining if a product or service should be disseminated via electronic means. The government should not gamble limited fiscal resources to meet unproven and undefined information needs.

One of the most important requirements of P.L. 104-13 is that agencies provide adequate notice when initiating, substantially modifying, or terminating significant information dissemination products. In reforming Title 44, Congress should adopt a similar provision. The purpose of this provision would serve two functions. First, it would help assure that the general public, the originating executive branch agencies

and congressional oversight authorities are aware of all resource costs -- including time and personnel -- required of GPO to modify an information product or service that is deposited in the FDLP. Additionally, congressional officials would be able to discover the extent to which other providers, including private sector redisseminators, were already filling the demand for information and thereby better judge the effect that an agency's offering of an electronic service would have on the marketplace.

The effect of government entering the marketplace to duplicate private sector products and services can be quite serious. Government may see an easy way to increase its information dissemination activities by duplicating successful commercial products and services in the marketplace; however, such moves take unfair advantage of all the market research, development costs and investment risk borne by the private sector. The use of taxpayer funds to compete with taxpaying companies and their employees is not only offensive, but ultimately not in the overall interest of the user community.

All taxpayers, including patrons of federal depository libraries, benefit from costsavings and wider dissemination of government information through a diversity of competitive sources. Competition in the marketplace results in a downward pressure on prices and encourages development of a variety of products and services that meet the particular needs of multiple distinct audiences. A wider customer base also tends to result in lower per-unit prices. All these advantages can quickly disappear, however, when an entity with the size and capital resources of the government suddenly enters the marketplace.

Ouestion #8:

Again, the Association believes that it is government's role to disseminate underlying agency public information in a form or format that is developed to meet an agency's legally required mission. Information dissemination decisions depend heavily upon the facts of a particular public information need and the mechanisms available for fulfillment. Agencies are in the best position to consider all of the relevant factors — including their mission and the needs of their specific user community — in making information dissemination decisions.

IIA questions the premise that there is a significant number of government information products that the general public is seeking but which are not generally available. However, if this proves to be the case, IIA would welcome government agency efforts to make such information more widely available — keeping in mind the statutory mandates for equal and timely access contained in P.L. 104-13, as

well as fiscal and other resource constraints. Indeed, increased federal dissemination activities, undertaken in a responsible manner, could aid in increasing both the number and variety of commercial products and services based on government information.

Our views on the government role in "ensuring general public useable access" are further elaborated in the answer to question 4.

Question #9:

Given the breadth of dissemination activities throughout the federal government, it might be appropriate for a centralized entity like GPO to provide consistent and uniform guidance on federal information policy to agency producers of information.

Private sector redisseminators of government information already undertake a great deal of market research prior to development of products and services. This research often involves investigating the needs of libraries and their patrons. While informal consultation with GPO could be helpful in the private sector's understanding of other, unmet needs, IIA would caution that establishing a formal, advisory relationship that would insert GPO into the decision-making processes of private-sector publishers could lead to unwise, unwarranted and unconstitutional government control over free expression.

Ouestion # 10:

There are two concerns regarding "authentication" of government information and the barriers that might be raised due to said authentication. The first is technical. By inserting some type of watermark or other signature in government information, private sector redisseminators could be prohibited technically from reformatting, rearranging or recompiling government information in ways that are most useful to their customers.

The second issue is a question of policy. Currently, private sector redisseminators take government information, add value to it, and resell it to their customers. These redisseminators stake their reputations — and thus their continued existence in the marketplace — on the reliability and accuracy of the government information they sell to their customers. They are not now required to carry that information in a format that has a government "stamp of approval." However, agency trademarking of information could lead to a situation whereby private sector redisseminators would have to get an agency's permission to use the information in different formats. In addition, this type of policy could, in effect, force private sector customers to obtain the information from the "official" source in order to avoid potential liabilities.

Finally, because no technical or policy "fix" for authenticating information will ever be completely fail safe, IIA believes that part of the responsibility for ensuring that government information is authentic — or official, for that matter — requires some initiative on the part of the user. This is especially true if the accuracy of the information being used is critical to the user's end product. By watermarking information, agencies may give consumers a false sense of security that the information will always be reliable.

Question # 11:

IIA's concern that Congress require libraries to inform their patrons about the importance of intellectual property rights is tied specifically to proposals that special funding be provided to federal depository libraries for the purchase of equipment and the training of library personnel to access government information electronically. This funding is likely to be directed toward those libraries and their patrons who are relatively unfamiliar with electronic information. Moreover, the equipment purchased and the training undertaken will undoubtedly apply to both private sector, copyrighted materials and government, public domain data. As the Committee is well aware, rights and restrictions on the use of these two general types of materials is different as a matter of federal law.

There is general and growing concern in the information industry about the manner in which intellectual property rights are being ignored or blatantly violated the digital environment. This is particularly the case among newcomers to the digital age. While libraries continue to be among the most responsible users of private sector, copyrighted materials, IIA is nevertheless concerned that new users of digital technologies be made aware that intellectual property laws are as important to respect in terms of information received digitally as in terms of hard-copy products. Otherwise, private sector information providers may find a whole new class of users either intentionally or unintentionally violating property rights as a result of financial aid supplied by the federal government.

Ouestion # 12:

Indeed, there may be an issue of semantics as it relates to the issue of formatting, if as stated in this question, GPO's only intention is to repackage the identical underlying data in other media (i.e. CD-ROM, tape, print, disk, etc.). However, we remain cautious about the notion of GPO changing "formatting" of information. While simply saving the information on different types of media may not change the integrity of the data, changing the information from one type of word processing or other computer language to another may. As stated in our written testimony, we are concerned that the integrity of the information originated by agencies be preserved. This situation could be jeopardized should GPO begin making editorial decisions about the federal government information it disseminates.

Altering formats requires a multitude of judgments which can significantly change original publications. Private sector publishers take great efforts in formatting publications in print, and these efforts have grown in magnitude and importance with electronic products and services. For instance, a change in format from SGML to HTML is considerably different from making an image of a printed document on a microfiche. Conversion from SGML to HTML also implies moving to a World Wide Web environment, a development that brings with it myriad access and display decisions that are clearly editorial in nature. IIA would cite only one example, but one that any Web information provider must face early on, namely determining whether material is displayed on its own Web page or is subsumed within a broader Web. Any user of the World Wide Web will attest that the manner in which information is presented and placed on Web pages has a great impact on the way in which the user perceives the importance and value of that information — decisions that GPO, as a central disseminator of others' information, should not undertake.

In addition, as stated in our testimony, it is likely that additional formatting by GPO will increase costs for information companies by requiring them to devote additional resources to remove formatting that does not serve their or their customers' needs.

Ouestion #13:

IIA has not conducted a survey of the types and numbers of private sector products and services used by libraries, nor can the Association predict what future market demands will encourage the development of additional materials for libraries and their patrons. Currently, however, we can be confident in stating that most private sector providers of government information seek to sell to the library community as extensively as they do to specialized niche markets and the general public. Certainly, a casual browse through most library shelves and reading rooms will demonstrate a vast wealth of data supplied by the private sector in areas such as statutes, legal opinions, government statistics, regulatory filings and decisions, and government reports, to name just a few. Moreover, these private sector products are often available in print, microfiche and electronic formats.

Because of the wide variety of products and formats, it is impossible to determine an average cost. However, prices for information products and services are reflective of market demand and the highly competitive nature of the information marketplace. As more opportunities arise for private sector redisseminators to develop new products and services, the competitive marketplace will — by its very nature — assure that costs remain as low as possible. In any event, IIA does not anticipate that today's current efforts by information providers to provide significant price reductions to the library community — based on special needs and volume discounts — will change in the electronic environment.

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The Honorable John Warner, Chairman Senate Committee on Rules and Administration 305 Russell Senate Office Building Washington. DC 20510-6325

The Honorable Wendell H Ford, Ranking Member Senate Committee on Rules and Administration 305 Russell Senate Office Building Washington, DC 20510-6325

July 30, 1996

Dear Chairman Warner and Senator Ford:

Thank you for invitting me to testify at the Committee's July 16, 1996 hearing on "Public Access to Government Information in the 21st Century" and for the opportunity to respond to the following questions set forth in your letter dated July 18, 1996.

We've heard testimony about government agencies doing more and more printing in-house, often at
greater cost than if the printing were done in the private sector. When should government printing be
done in-house, and when should the government's printing be obtained from the private sector?

Government printing should be produced in-house only 1) when national security interests are implicated and 2) when small volume copying to tulfill internal agency administrative needs can be produced in-house on a cost-effective basis.

The category of national security printing can be protected by adopting special printing procurement exemptions for various intelligence agencies for the printing of their higher level classified documents.

The category of administrative copying requires a bright-line numerical test for determining when such copying is sufficiently small volume to be produced in-house on a cost-effective basis. One such bright-line test is set out in proposed government printing legislation sponsored by Rep. Jennifer Dunn (R-WA), H.R. 1024, which exempts in-house duplication of individual printing products not exceeding 4,000 printing units for a single sheet document or 20,000 printing units for a multi-page document. Cost-effectiveness of both electronic off-shelf printing and agency use of Docu-Techs should be measured against this standard (or a similar standard) for small volume administrative copying.

2. Title 44 currently requires that all procurement for government printing be coordinated through the Government Printing Office (GPO). Is centralized procurement by GPO more or less cost-effective than decentralized procurement by the various agencies? What other factors, such as coordination of dissemination to the depository libraries, should be considered in reviewing the procurement system for government information production? Are there justifiable exemptions from centralized procurement?

Centralized procurement may achieve greater economies of scale in certain printing acquisitions, but the driving force behind cost-effective printing procurement is full and open bidding competition. A full, fair, and open competitive system can be either centralized or decentralized; the key is applying the system to all types of printing acquisitions, formal and informal. In today's procurement environment, however, cost-effectiveness has, unfortunately, become secondary to the need for maintaining control over a procurement system that is spinning out of control.

The issue is no longer whether Congress should design a centralized or decentralized procurement system, but whether Congress will take action to manage a process of devolution that is occurring in spite of Title 44's current procurement restrictions, due to 1) executive branch dissatisfaction with GPO service and procedures and 2) executive branch determination to assert its constitutional position that executive agency printing must not be subject to Congressional control. Whether justified or not, ABC believes that this process of devolution is inevitable and that affected constituencies will have no choice but to adapt to this new reality.

The depository library (DPL) system, for example, should be strengthened in two ways:

<u>First</u>, legislation is needed to make direct agency printing or printing procurement conditional on the agency complying with DPL access and distribution requirements.

Second, a more detailed agency printing and printing procurement reporting system should be implemented as part of the Congressional appropriations and oversight process with periodic GAO audits to ensure compliance.

 What comments might you have on Assistant Attorney General Walter Dellinger's May 31, 1996 Memorandum to GSA's General Counsel, concerning the constitutionality of certain Title 44 requirements?

Judging from the testimony in these hearings on this issue, there appears to be no disagreement that the GPO is subject to sufficient supervisory control by the Joint Committee on Printing (JCP) to satisfy the first prong (i.e., Congressional control of GPO) of the two-part test under <u>Bowsher v. Synar</u>. It is perhaps for this reason that the Public Printer has suggested "[t]ransferring certain JCP authorities to the Public Printer ... [to] address constitutional concerns about the role of the JCP". <u>See Testimony of Michael F. DiMario dated July 24, 1996 at 19 (hereafter "DiMario Testimony")</u>. The Public Printer apparently envisions limiting the JCP to the role of "referee" between the two Houses of Congress and to being a source of "policy oversight".

For the reasons stated in my original July 16, 1996 testimony, ABC believes that the DiMario solution is unworkable.

Congress would either have to remove printing and printing procurement functions from the GPO or relinquish all supervisory control over GPO as currently constituted (including the public information distribution functions of the Superintendent of Documents). Even if such supervisory control were relinquished, there would remain difficult implementation issues since, as the Public Printer himself concedes (see DiMario Testimony at 10), major differences exist between the Federal Acquisition Regulation (FAR) and the GPO's Printing Procurement Regulation (PPR).

The second prong of the <u>Bowsher</u> test (i.e., GPO performance of executive functions) is much more problematic and subjected to little or no analysis in the May 31, 1996 Department of Justice ("DOU") Memorandum. The DOJ analysis is further undermined by the overstatement that GPO has "extensive control" of executive printing.

Nonetheless, despite these weaknesses in the DOJ Memorandum, ABC would agree that the second prong of the Bowsher test is also satisfied and that the DOJ's ultimate finding of unconstitutionality is correct.

The section of the DOJ Memorandum that deals with this issue assumes, but does not explain, exactly how GPO is supposed to "control" executive printing. It simply makes the categorical statement that compliance with 44 U.S.C. §§ 501 and 501 Note allows the GPO to control "the timing and the production of all printing work for the executive branch". See Testimony of Christopher Schroeder, Acting Assistant Attorney General, dated July 24, 1996 at 4 (hereafter "Schroeder Testimony"). As the Public Printer has pointed out, however, the GPO cannot refuse to fulfill an executive branch printing requisition and controls neither the editorial nor informational content of executive branch publications. See DiMario Testimony at 11. From this, the Public Printer concludes that GPO only performs a "ministerial" role for the executive thranch

ABC believes that the DOJ has overstated its case in claiming that GPO has "extensive control" over executive branch printing, but that the extent of such control, while critical to the first prong of the <u>Bowsher</u> test, has never been adopted by the Supreme Court as a determining factor in the second prong of the <u>Bowsher</u> test. Rather than establish some sort of "ministerial" exception to <u>Bowsher</u>, the courts are more likely to ask whether GPO is performing executive functions at all. On this point, both GPO in-plant printing and GPO printing procurement of executive branch publications would appear to qualify as the performance of executive functions.

Moreover, ABC doubts whether GPO operations would truly qualify as "ministerial". Customer agencies have long complained over production delays in GPO in-plant operations, which surely entails a tangible loss of control over the timing of executive branch publications.

Even with respect to private sector printing procurement, it is the GPO who decides which printing firms are deemed "qualified" at each qualify level and which vendor is considered the low responsive and responsible bidder on any particular contract Similarly, after a contract is awarded, it is the GPO contracting officer, not the customer agency, who has decision-making authority over matters of contract administration.

The concept of "ministerial" implies that the GPO must acquiesce in all executive agency requests, but this is simply not the case. ABC knows of at least one recent contracting dispute where the GPO refused to grant a contract modification that the customer agency (Department of the Treasury) had requested, approved, and offered to fully fund.

The strongest argument in favor of the constitutionality of the current GPO system is that it aids Congress in the performance of its legislative functions by strengthening Congressional control over the public distribution of government information. Public access to government information is essential to good lawmaking, both in terms of having a citizenry that is informed about its national government and for Members of Congress themselves, who rely on executive branch publications to perform their lawmaking and oversight functions. This argument is unlikely to be persuasive, however, to the extent that there are alternative federal printing procurement systems free of constitutional defects, yet which would allow Congress to maintain control over the distribution of public information.

The best atternetive is the one suggested by both the OMB's and DOJ's current position that, while it is a violation of the separation of powers doctrine to require the executive branch to use GPO, there is nothing unconstitutional about the executive branch choosing to use GPO.

Applying these principles, ABC favors the establishment of a system that permits executive branch agencies to conduct their own printing procurement, but under the same acquisition rules and procedures as GPO. Forced to compete on a level playing field with executive agencies for federal printing procurement, GPO will be compelled to improve its customer agency service. The likely result, in ABC's view, will be that many executive agencies will indeed choose to continue using GPO, but without the constitutional infirmities of the current system.

In short, ABC believes that fear of competing direct executive agency printing procurement can be the driver to improve GPO's service to its customers. ABC also believes that most, if not all, of GPO's customers in the end will choose to use GPO rather than take on the additional personnel and financial burdens of operating a fair, open and competitive printing procurement system modeled on the GPO's system by legislative mandate.

Page 4

- 4. There are many challenges in defining terms for Title 44. For example, "government information product" could include most of the information disseminated on agency and Committee Web pages, or it could be defined more narrowly. Each definition has significant cost implications for production, dissemination and storage of government information. Could you provide recommendations for defining the following terms:
 - "Access" versus "individual ownership/use"
 - "Useable format"
 - "No-fee access" concept versus "recovering costs"
 - "Basic" versus "value-added" format/service
 - "Publish" versus "disseminate, produce or duplicate"

In defining the terms referenced in this question, ABC starts from the premise that federal procurement information, which is disseminated for the government's benefit in obtaining quality acquisitions at competitive pricing, is qualitatively different from government information that is disseminated for the taxpayers' benefit in having public access to government research, studies, and other information produced at taxpayer expense.

Moreover, federal procurement information is made available to the public for the specific purpose of initiating business transactions with a defined group of interested parties seeking to use that information for financial gain.

For such companies seeking to do business with the federal government, obtaining federal procurement information is a part of the cost of doing business whether or not companies, like ABC, exist to facilitate the dissemination of such information. For the GPO printing vendor such costs include 1) obtaining all solicitations which fit precise manufacturing capabilities, 2) obtaining past job histories and ascertaining present market conditions on which to base decisions as to which solicitations to bid. 3) preparing individual bids for submission on selected solicitations, 4) producing any job awarded, and 5) billing and obtaining payment for work performed

With regard to the first two categories of business costs – i.e., the costs of dissemination and selection – printers interested in GPO work absorb these sales and marketing related costs in one of two ways. They can employ personnel to obtain, review and cull through solicitations as part of their own in-house operations; or they can, in effect, pool their resources with other printers interested in obtaining the same sales and market support services to reduce the overall costs to any one business. By choosing the second alternative, printers have created new jobs through private sector businesses specializing in providing pooled or value-added sales and market support services.

In short private sector businesses, like ABC, have been created by needs expressed by the marketplace and driven by competitive forces to reduce costs by providing dissemination / selection and sales / marketing services lower than can be provided by the printers themselves in-house.

The issue then is not whether there should be "no-fe e access" to federal procurement information -- businesses will always incur dissemination / selection and sales / marketing costs whether the government charges an additional access fee or not -- but whether the government should displace the private sector in developing and providing the means by which these dissemination / selection and sales / marketing services are provided to parties interested in doing business with the federal government

ABC is committed to the principle that the provision of dissemination / selection and sales / marketing services should be left exclusively to the private sector, should remain the responsibility of the seller, and that government should not compete with private sector businesses to provide dissemination / selection and sales / marketing services.

Rather than constituting an added "access fee", the 'pooling of dissemination / selection and sales / marketing services reduce the overall costs of doing business with the GPO, which then becomes a beneficiary of this reduced overall cost in the form of more competitive bidding. GPO vendors who obtain these pooled value-added services through the private sector save 20% to 30% or more in their dissemination / selection and sales / marketing costs.

In defining terms for Title 44, Congress should follow and apply this principle scrupulously. Thus, "basic" service means making federal procurement information available to the public in the form in which the government itself uses such information and only to the extent needed to fulfill the government's <u>basic</u> procurement mission of obtaining adequate bidding competition.

To the extent that the government incurs costs in transmitting procurement information at the request of individual businesses and for the purpose of obtaining additional competition, such costs should be recovered from the individual businesses which benefit from receiving such procurement information. Companies, like ABC, who request GPO bid solicitations in bulk copies or who ask to receive copies by facsimile or other special services, should be required to reimburse the government for the costs of preparing bulk copies or to provide toll-free facsimile lines.

Beyond this "basic" service, any service that provides the public with federal procurement information in a form which the government itself does not use is a value-added service. Thus, any service that is designed to assist interested parties in the dissemination / selection and sales / marketing process described above is value-added

Similarly, any service provided by the government which captures federal procurement information in a database form that the government itself does not use (i.e., archived bid results from prior years) is value-added. Because these services are already provided by the private sector and are unnecessary to the fulfillment of the government's basic procurement mission, the government should not be spending tax money to develop and provide these dissemination / selection and sales / marketing services in competition with already existing private sector businesses.

In essence government competition with the private sector kills private sector jobs and moves them into government.

At the very least, the provision of these services by the government to individual businesses who request and benefit from these services should be conducted on a full cost-recovery basis.

5. You mention in your statement that if procurement was decentralized, "fugitive documents" could be eliminated by requiring that copies be provided to the GPO Superintendent of Public Documents. However, that requirement is already in Title 44, and even with centralized procurement, we find incomplete compliance with that requirement. Would you have a suggestion on how to enforce this requirement if Congress authorized decentralized procurement? How would GPO even discover the document's existence?

ABC only favors decentralized printing procurement under statutory rules that incorporate the cost-savings features of the GPO system and that apply uniformly to all agencies seeking to establish a printing procurement system.

Just as the GPO must satisfy distribution and access requirements that maintain the depository library (DPL) system, so should any other agency that wishes to purchase or procure printing directly from the private sector. By making compliance with DPL requirements a condition of establishing and operating a direct printing procurement system, agencies would have an incentive to comply to avoid losing the right to procure directly.

In contrast, under the current centralized system, agencies who are dissatisfied with GPO or who wish to procure in competition with GPO have an incentive to stay outside the DPL system because it is still controlled by the GPO through the Superintendent of Documents. Further, under a decentralized system that, in effect, institutionalized printing procurement competition between and among GPO and executive agencies who procure directly, each procurer of federal printing would have a much greater incentive to act as a "watchdog" to ensure other procurers of federal printing were complying fully with DPL requirements.

Finally, Congress should strengthen its oversight role by instituting a more detailed agency printing and printing procurement reporting system as part of the Congressional appropriations and oversight process with periodic GAO audits to ensure compliance

In your testimony, you express the view that access to government solicitations for printing should be restricted to pre-qualified vendors, and that fees should be charged for copies of such bid information. How does this foster full and open bid competition within the printing and publishing communities?

It is ABC's view that federal procurement information should be made available to the general public in the form in which the government uses such information, which can be accomplished through physical or electronic advertising of the solicitations themselves (e.g. the Commerce Business Daily) or through the distribution of summaries of solicitations (e.g. the GPO's own BIC or Bid Information Center), but only to the extent necessary to assure adequate competition. Additional vendors should then incur their own costs in obtaining and selecting copies of those solicitations in which they are interested in bidding, with vendors paying according to their individual levels of interest.

Thus, small printers may only be interested in occasional bid solicitations from a regional office, prefer to view periodically the posting boards themselves, and only make physical copies of bid solicitations that they themselves select. Larger printing firms may wish to consider bid solicitations nationwide, use the already existing GPO on-line Bid Information Center or have a private sector value-added dissemination / selection and sales / marketing service cull out selected solicitations and transmit copies directly to the printer either by overnight courier or electronically. In either case, the federal government should leave the provision of these separate value-added services to the private sector.

The key to full and open competition is not the widespread free dissemination of bid solicitations, but the development, growth and maintenance of a dependable, competitive high quality vendor base, which only private sector value-added service providers have the incentive to build and to provide to GPO.

This dependable, competitive high quality vendor base represents a market acceptance that the GPO has not historically developed or maintained and can not develop or maintain in the future on its own. It requires value-added private sector firms, like ABC, who have a financial incentive in developing a market acceptance among printers who then have an interest in purchasing the type of value-added services that ABC provides.

If the government provides value-added dissemination / selection and sales / marketing services at no charge and without consideration for cost recovery, private sector value-added service providers, like ABC, can no longer compete and as a result have no financial incentive to develop GPO market acceptance among printers.

By competing with its private sector constituency, GPO destroys the one thing necessary for its future survival - its market acceptance among printers of the value of GPO contribution volume and cut-throat competition.

This point can be illustrated with a simple analogy.

Today gasoline is sold by both full-service value-added providers and at self-service stations.

Full-service value-added providers offer numerous value-added customer repair and maintenance services and install such products as windshield washer solvent, anti-freeze, oil and tires. Self-service stations provide no services other than the sale of gasoline. Customers can choose to pay for gasoline according to their individual levels of interest either from a value-added full-service provider or from a self-service gasoline station.

Historically, the role of government in providing gasoline has been limited to assuring access to the oil supplies needed to make the gasoline. If tomorrow the government were to open suddenly its own self-service stations to begin selling and marketing gasoline for free without regard to cost recovery, private sector self-serve stations could obviously not compete. They would simply go out of business. Private sector jobs would be lost. After all, what customer could justify paying for gasoline when the government was giving it away for free?

By the same token, the value-added full service providers would also close. Although perhaps more profitable due to offering additional value-added products, without the income from the sale of gasoline the remaining income from the value-added products would be insufficient to cover overhead or to make a profit.

As a result, the government could crow about the "service" it was providing to the driving public, about the number of cars waiting in line to obtain gasoline, about how access to gasoline was now equal for everyone. Truckers could now increase their profits, while the general public could afford to travel further on vacations

Everyone obtaining gasoline for free would be happy — until vehicles break down and stop running. Why? Because the government would not and could not supply the value-added products offered by the full-service private sector providers and, for that matter, has no economic incentive to meet customer demand for high quality, low cost repair services. Government is not an entrepreneurial business providing market driven services to the public.

As a result of the government providing gasoline for free, there would be no vehicles that could run to use the government's gasoline. While the government has the power to sell gasoline for free, it is not in its best interest of the government or the consumer for the government to do so.

This is what the future holds in store for the government printing market if the GPO is allowed to continue to develop and provide value-added dissemination / selection and sales / marketing services for free at taxpayer expense without regard to cost recovery -- particularly when printers are not clampring to "free gasoline".

Finally, lest the Committee think that this a view attributable only to ABC, it must be pointed out that the executive branch has itself adopted this view in the way it has designed and implemented FACNET. Under FACNET, "full and open competition" is being fostered <u>not</u> by the free widespread dissemination of federal procurement information, but by restricted access to Value-Added Networks (VANs), who have a financial incentive in developing and maintaining the market for such procurement information

ABC is seeking only to apply the same principles underlying FACNET to the GPO's system of printing procurement.

7. With so many changes in communication technologies, and anticipated continued rapid pace changes ahead, what is "value-added" service or formatting today becomes "plain vanilla", basic service or formatting tomorrow. How would you legislatively encourage government to continue to take advantage of new information and communication technologies to benefit the public we serve, being mindful that those very innovations may compete with a "value-added" service being currently provided?

In the area of federal printing procurement, Congress should legislatively encourage the development of a genuine Electronic Commerce / Electronic Data Interchange (EC / EDI) system for post-contract award business transactions between GPO, customer agencies and commercial printers.

Congress should also continue to support GPO in its efforts to computerize its internal procurement operations to achieve greater cost savings in the preparation of GPO bid solicitations.

Beyond the electronic advertising of GPO bid solicitations in the form in which the GPO itself uses such solicitations, Congress should not be encouraging GPO to spend tax money to "take advantage of new information and communications technologies" that the private sector is already providing to commercial printers who desire solicitation dissemination / selection and sales / marketing services.

Further, by spending tax payer money to obtain cutting edge technology of its own -- rather than relying on the private sector to supply the necessary service, the government assures itself that the technology institutionalized today will be plain vanilla tomorrow when the government should be continuing to take advantage of then cutting edge technology through the private sector.

8. What does your company do to add value to basic government information, specifically, GPO bid solicitations? Why do these value-added services transform basic bid solicitation information into a commercial product?

First: ABC has developed a comprehensive data entry system to capture the details of each issued GPO bid solicitation, the bid results for each solicitation, the contract awards for each solicitation, and post-contract award performance by the winning vendors. There are approximately 200 to 250 GPO bid solicitations issued each day, and ABC employs data entry personnel to extract what ABC believes is relevant information about each bid solicitation in building and maintaining a comprehensive database.

<u>Second</u>: ABC has developed a sophisticated sorting and cataloguing system which matches up the information contained in the dalabase to the individual requirements and capabilities of each client printer. Through this sorting and cataloguing system, ABC customizes GPO procurement information for each of its clients at a significant cost-savings to the individual client.

<u>Third</u>: ABC provides a variety of transmission methods (overnight delivery of hard-copies, computerized facsimile transmissions, and on-line electronic viewing) to service each client according to the client's level of technical sophistication, operational capabilities and financial needs. ABC's facsimile and on-line transmission systems are both state-of-the-art in that they allow the client to request customized procurement information in facsimile or electronic form.

<u>Fourth</u>: ABC provides its clients with both standard and customized printing procurement reports generated from the information developed and maintained in its comprehensive computer database.

These value-added services transform basic bid solicitation information into a commercial product, because they customize the information for each commercial printer. By converting the basic solicitation information to a form that is usable by each individual printer according to that printer's individualized needs and interests, these services add a value to the basic information that the individual printer would otherwise have to create on its own.

The added value is represented by the costs that the individual printer would have to incur on its own to obtain the information in a customized fashion. By pooling these costs with other interested printers through a value-added service provider, like ABC, these value-added services generate a cost savings for all printers participating in the system.

Although the provision of bid solicitations to individual printers is paramount, ABC's additional value-added services are essential to building and maintaining GPO market acceptance. However, the value of these additional services is insufficient alone to compensate for private sector efforts in building and maintaining GPO market acceptance in the event GPO continues to develop and operate a free value-added bid solicitation dissemination / selection and sales / marketing service.

9. What specific services does GPO currently provide that duplicate these value-added services provided, at a fee, by your company?

GPO is currently extracting bid solicitation information for use in its Bid Information Center (BIC) database system. In addition, GPO is furnishing on-line access to archived bid results (i.e. bid results from prior years) for formal solicitations and term contracts / programs from its Hampton Regional Printing Procurement Office, with the intent of expanding this on-line service nationwide.

Most importantly, GPO has formally committed its Printing Procurement Department to the development of a system that not only encompasses all of its daily 200 to 250 formal and informal procurements nationwide, but which also provides the GPO vendor with, according to GPO, "quick, easy, and inexpensive" access to these procurements. As a practical matter, "quick, easy, and inexpensive" access to 200 to 250 bid solicitations each business day is possible only if the GPO also furnishes the type of value-added dissemination / selection and sales / marketing services described above.

10. On page 10 of your written testimony you state that the development of a value-added electronic posting system [by GPO] that is freely and widely accessible over internet will undermine the GPO print procurement system in four ways. What specific evidence can you provide the Committee of that occurring in the case of any value-added services developed by GPO as identified in question #9?

The value-added services that GPO has furnished to date are still in such an early state of development that the impact on the printing procurement system cannot yet be measured

11. If there were 100% compliance with Title 44's mandate that all government printing either be procured by GPO or printed by GPO, how would your industry's business opportunities be impacted?

The printing industry would be impacted favorably in two ways – provided that the printing would be accomplished by procurement through the private sector. Printing produced in-house at GPO does not help the private sector, does not save tax money and does not improve GPO customer loyally.

For the printing industry, value-added providers, like ABC, would have substantially more "product" to sell. GPO bid solicitations constitute the raw material from which companies, like ABC, create value-added services. The more bid solicitations that are available, the more value-added services that can be provided and the greater the market need for such services.

In addition, as more government printing is procured through the private sector, value-added providers, like ABC, would be to recruit more qualified commercial printers into the federal printing market, thereby strengthening the vendor base on which GPO relies

The same results can be achieved through either a centralized or decentralized procurement system, provided that all federal printing within Title 44's mandate is procured through full and open competition, with all bidding opportunities available to all interested parties.

12. If you were to advise GPO on how to market their centralized procurement services more aggressively with the executive and judicial branches, and on how to develop better customer relations with these "clients", what would be your advice?

I would advise GPO to

- accept competition from executive agencies in the procurement area as the best incentive for improving its customer services:
- procure more executive agency printing through the private sector and produce less executive agency printing through its in-plant operations;
- focus its human and technical resources on building better customer relations instead of competing with the private sector to furnish value-added procurement services; and
- 4) develop a genuine post-contract award Electronic Commerce / Electronic Data Interchange system.

Page 10

13. You mention in your testimony a number of recent questionable printing procurements. Will you provide the details of these questionable procurements to the Joint Committee on Printing for follow-up actions?

Yes

The details of these non-GPO printing procurements will be provided to the JCP staff for appropriate follow-up action.

In addition to providing the foregoing answers, I wish to made two clarifications to my written testimony of July 18, 1996, both of which relate to the Defense Printing Service (DPS). First, on page six of my written testimony, I referred to "an 88,000 reprint order being purchased by credit card through the Defense Printing Service". This statement should have read as follows: "a reprint order that a customer agency of the Defense Printing Service attempted to purchase by credit card when given an \$8,000 quote". ABC has no reason to believe that the DPS itself was involved in this attempted credit card purchase, and any implication to the contrary was inadvertent on my part. Second, on page eight of my written testimony, I included the DPS among those executive agencies that "either have or wish to develop their own print procurement services". I have since been assured by the DPS that this statement is incorrect and that no such aim is contemplated by the DPS in fulfilling its new mission as the Defense Document Automation Service.

If the Committee has any additional questions, or if I can be of any further assistance, please do not hesitate to contact me at 717-264-7298 or my corporate counsel, Anthony W. Hawks, at 703-360-4444.

Thank you again for allowing me to participate in these important hearings

Very truly yours,

William A. Gindlesperger President

WG·It

The Honorable William Thomas, Chairman House Oversight Committee The Honorable Bud Shuster, Member of Congress

The Honorable Michael DiMario, Public Printer

Ben Cooper, PIA Senior Vice President for Governmental Affairs

OUESTIONS FOR MR. CLAITOR

- 1. We've heard testimony about government agencies doing more and more printing in-house, often at greater cost than if the printing were done in the private sector. When should government printing be done in-house, and when should the government's printing be obtained from the private sector?
- 2. Title 44 currently requires that all procurement for government printing be coordinated through the Government Printing Office (GPO). Is centralized procurement by GPO more or less cost-effective than decentralized procurement by the various agencies? What other factors, such as coordination of dissemination to the depository libraries, should be considered in reviewing the procurement system for government information production? Are there justifiable exemptions from centralized procurement?
- 3. What comments might you have on Assistant Attorney General Walter Dellinger's May 31, 1996 Memorandum to GSA's General Counsel, concerning the constitutionality of certain Title 44 requirements?
- 4. There are many challenges in defining terms for Title 44. For example, "government information product" could include most of the information disseminated on agency and Committee Web pages, or it could be defined more narrowly. Each definition has significant cost implications for production, dissemination and storage of government information. Could you provide recommendations for defining the following terms:
 - "Access" versus "individual ownership/use"
 - "Useable format"
 - "No-fee access" concept versus "recovering costs"
 - "Basic" versus "value-added" format/service
 - "Publish" versus "disseminate, produce or duplicate"
- 5. You noted in your testimony that the Department of Commerce recently made data available to a private publisher to produce a book entitled "Big Emerging Markets". Did this private publisher simply print the data it had been given, did it "add value" by organizing the data in a more usable format, or would this document be considered the original, or "plain vanilla", version of the government information procured outside of Title 44?
- 6. If the underlying data is made available to the public, do you have any objections to the government entering into an agreement with a publisher to produce a book which organizes the raw data in a useful manner?
- 7. When executive agencies procure printing through exclusive contract printers by circumventing GPO and title 44, are reprinters of government information, such as yourself and others identified in your testimony, still able to access these documents for reprinting and reduced price sales, or are you effectively denied access to these documents resulting in a loss of business? To the extent that these practices have had a negative impact on the reprint business, do you foresee the potential for private sector litigation between reprinters and exclusive contract printers or the executive agencies?

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7/28/08

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Gentleman

Thanks for your counteries on 7/16/63 when I gave testimony, and thanks also for your letter of 7/17/08 requesting further comments on 7 questions.

- 1. My suggestion would be tor in-house printing on jobs under \$1,000, optional for in-house or GPO on jobs approximately \$1,000 to \$2500, and GPO for jobs over \$2500. Thus, some Agencies might have better equipment to do the \$1000.-\$2500 range effectively, and the others could do even better by using GPO.
- 2. Several of the witnesses at the hearing, including myself, made comments on just how tremendously effective GPO procurement is. The point was made that most printers bid at cost or below just to fill in blank spots rather than have a plant temporarily idle. I can speak from my own experience on this very point where we have bid on this basis only to come in higher than 3 or 4 other printers. So, it's a given that GPO is obtaining extremely competitive prices, and the public is benefiting. Would the same be true if the Agencies set up their own shops for bid proposals? Obviously they could not reach GPO's level of expertise in less than the 10-20 years it took GPO, not to mention the possibility of the same printing contract abuses by the Agencies which led directly in the 1960's to Title 44. It is interesting to note that some of the same printing contract abuses which fathered Title 44 in the 1960's apparently appeared again already in the recent title published with Commerce, NTIS, and the private sector.

Printing by the Agencies instead of GPO would probably fragment the Federal Depository Library System, and lead to its dismantling, which would be a tragedy and national outrage. Whatever is worked out, the Federal Depository Library System must be protected in the public's interest. Centralized procurement thru GPO for the FDLS should continue, so that the public is served, and so that the public can continue to know that GPO and the FDLS continue to be the repositories for government information as previously. This system IS working beautifully, effectively, and economically — let's not trade back to the problems of the 1980's!

At this time, there do not appear to be justifiable exemptions from centralized procurement.

3. It appears that the constitutionality of certain Title 44 requirements needs to be tested in court rather than by Agency debate. Claitor's may be able to assist in this regard, and we are looking into the possibility of doing so.

4. Definitions

No-fee access would be access to information without charge, such as GPO's home page access to Congressional Record and Federal Register, similar to access on our home page free for GPO's PRF and Occupational Guildox Handbook full text, Conversaly, NTIS has a "recovering costs" operation in that they charge, for the most part, for access to their information bases (obtained free from Agencies). The only "recovering costs" action at GPO at present may be to DRCR UT BIRDLING IN UNITED TRANSPIRED.

"Basic" is the book product as produced by the Agencies for their own use and others who are interested enough to want it in this format. For example, Stalistical Abstract is very useful in the format produced, and is used heavily as is by the originating Agency(Dept. of Commerce), many other Agencies, educational institutions, business, newspapers, other media, etc. It would become "value-added" if some publisher would increase the coverage from past 5 years to past 10 years, add additional indexes, annotate the information with editorial comment, etc.

To "publish" a book is to take the information/manuscript in final form and print it and distribute it. This is what GPO does with Statistical Abstract mentioned just above. It could also be done electronically as GPO does with Congressional Record, or on CD Rom as GPO does with Occupational Outlook Handbook. Disseminate, produce and duplicate could each be part of "publish," but none of these encompasses the whole of "publish."

The other 2 terms are out of our range for definition.

- 5. Apparently "Big Emerging Markets" was the "plain vanilis" version. That is, it doesn't appear that the data was enhanced substantially from the normal output of this Agency. Perhaps the 4 color cover was an enhancement, as GPO would have probably done this in black and white. The copyright notice restricting the public's use was another one of the few changes from the format GPO would have used had they had the chance. Of course, the public looks to GPO for information of this kind, and they won't find it there in this instance, as this title is not available from GPO. The Dept. of Commerce, NTIS, and the private publisher are needed for the exact answer to this question.
- 6. Yes, we do have objection to the government entering into an agreement with a publisher to produce a book which organizes the raw data in a useful manner. One large reason is that the agreement is already in place, and the system is working well. It's the soreement that publications of GPO are in the public domain. Publishers can take this information and these books and organize the date in a more useful manner. Some are already doing it, and two of their representatives were on our panel. The opportunity to do this is available to everyone, not restricted to "insiders" as apparently was the case with "Big Emerging Markets." A suggestion for consideration: Continue to publish books as done presently under Y44 without exception by Dept. of Commerce or anyone with complete availability to providing Agency(who has done the book in accordance with the needs of its jobs), other Agencies, and the public. Then, if any publisher wants to provide an enhanced version, they are free to do so, as presently. One incentive for Apencies to wish to turn their material over to publishers instaut of GPO obviously is for money in one form or another, such as royalties. Apparently this was done on "Big Emerging Markets." Is it legal for Dept. of Commerce to operate with appropriated funds, than turn around and sell the public's product? Please review this. Same for NTIS - they are selling appropriated funds products that are already owned by the public. If this is legal, then I submit that GPO could up the price 10% or so, and kick the royalty back to the providing Agency, and everything else (like FedDepLibPro) would fall into place as it should be. Firstly, NTIS would be removed to the auspices of GPO. Under this umbrells, they could provide some of their useful services as presently without creating duplications and problems for their parent.
- 7. Yes, we are definitely denied access to documents resulting in a loss of business. We have proposed alternatives above that are greatly more protective of the public interest as well as our own interest as well as the interest of fellow businessmen including two other panelists. But this is only the answer to your question yes, we are denied access resulting in a loss of business. Please disregard this we are here mainly to consider the PUBLIC'S interest, which is what you will surely do, and we are satisfied to let the chips fall where they may if this is your direction. We and our fellow-publishers outlined in my 7/16/88 testimony have relied on Y44 and complied with it, and we will do the same with your new law...or move on to other venues. Maanwhile, let's hope that the "Johnny-come-latelys" who have NOT relied or compiled will not be able to force their views on the Committee to the detriment of the public.

Yes, we do see the potential for litigation between reprinters, exclusive contract printers, NTIS, and Agencies under the present T44. In fact, we are presently assembling data and our attorney is reviewing the matter and presenting our options to us.

There's no Question 8, but we take the liberty here if permitted to continue the dialogue that was in process when time ran out at the hearing on 7/18/88.

I was attempting to make a comparison on "Big Emerging Markets" considering what had happened on this title, and what would have been the case if the book had been done by GPO, about as follows:

DONE BY NTIS, ETC.

Available to public thru GPO - NO

Copyright private - not in public domain

Price higher

Distributed to FDLP --- no initially, partially later after "pushing and shoving" by Rules

Not available to reprinters

Printing abuses - apparently so

Distribution thru dealers - virtually none

Total sales — less than 4000 Public lost appropriated funds

Royalties to Commerce, NTIS NTIS takes business from GPO

NTIS takes business from GF Private publisher benefits DONE BY GPO

Yes

No copyright - book in public domain

Price lower

Yes

Available to reprinters No printing abuses

Yes

Probably well over 4000. More people get use.

No loss of appropriated funds

No royaliles Does not happen No private benefits

Thanks again for the courteous and helpful treatment from you and your staffs — you made me feel welcome and that my efforts were not wasted. In this day of corruption and scandals, it is enormously satisfying to this taxpayer to see the tremendous effort of RULES to DO THE RIGHT THING FOR THE PUBLIC. Keep up the good work!

Sincurally

Bob Clattor

QUESTIONS FOR MR. COOPER

- 1. We've heard testimony about government agencies doing more and more printing in-house, often at greater cost than if the printing were done in the private sector. When should government printing be done in-house, and when should the government's printing be obtained from the private sector?
- 2. Title 44 currently requires that all procurement for government printing be coordinated through the Government Printing Office (GPO). Is centralized procurement by GPO more or less cost-effective than decentralized procurement by the various agencies? What other factors, such as coordination of dissemination to the depository libraries, should be considered in reviewing the procurement system for government information production? Are there justifiable exemptions from centralized procurement?
- 3. What is PIA's position regarding GPO providing bid solicitation information electronically, and do you favor GPO development of an electronic commerce system?
- 4. Does PIA see such GPO electronic interactivity concerning bid solicitations competing with value-added service in the private sector, or is GPO merely adjusting to today's technology as it develops an electronic commerce system?
- 5. You were involved in the 1979 Senate Rules Committee hearings on Title 44. There have been some dramatic changes in communications technologies since that time, adding to the need to update Title 44. Could you recommend any changes to Title 44 which you feel would immediately improve the efficiency, cost and compliance of government information production and dissemination?
- 6. During the July 16 hearing, you recommended that agencies be required to describe their printing/duplicating equipment and every 18 months defend their need for this equipment, possibly as part of the budget request/appropriations process. Would you also recommend Title 44 be amended to require agencies to identify projected information products and distribution on an annual basis?
- 7. Can you inform this Committee more about private printers' new technology investments, and discuss the impact of government purchases of similar technologies on both the taxpayer and your industry?
- 8. GPO has reduced both its workforce and its in-house printing operations over the past dozen years, and continues to do so while upgrading their printing machinery and computer technologies. Do you have suggestions on how GPO's in-house operation might be further improved?
- 9. Are there examples in the printing industry that are analogous to GPO's services for legislative printing: that is, the assimilation of information from hundreds of constantly changing sources and formats of information that have immediate editing turn-around, 24-hour or less printing and distribution requirements, and uneven production demands due to legislative schedules?
- 10. If industry performed the same requirements imposed on GPO, does PIA believe the costs—including training and start-up costs—would be about the same, lower or higher than GPO's, and why?
- 11. Title 44 requires federal documents not printed or procured by GPO to still be included in the Federal Depository Library Program. Compliance even with centralized procurement is uneven; would you have suggestions on how to enforce such a requirement if procurement was decentralized?
- 12. Does PIA think Title 44's centralized procurement function should be clarified as to its inclusion of electronic publishing?
- 13. What comments might you have on Assistant Attorney General Walter Dellinger's May 31, 1996 Memorandum to GSA's General Counsel, concerning the constitutionality of certain Title 44 requirements?
- 14. There are many challenges in defining terms for Title 44. For example, "government information product" could include most of the information disseminated on agency and Committee Web pages, or it could be defined more

narrowly. Each definition has significant cost implications for production, dissemination and storage of government information. Could you provide recommendations for defining the following terms:

"Access" versus "individual ownership/use"

"Useable format"

"No-fee access" concept versus "recovering costs"
"Basic" versus "value-added" format/service
"Publish" versus "disseminate, produce or duplicate"

QUESTION #1

We have testified many times that the government does not need to be in the printing business other than that self service copy work necessary for routine office operations. All other work including national security can and should be performed by the private sector.

QUESTION #2

For decades, centralized procurement through the GPO has been more cost-effective than any other method. We have seen no evidence to date which would support changing this system on the basis of cost. Providing information to the public whether through the depository library system or some other mechanism is the primary function of the Government Printing Office. Printing is one of the communication options available to fulfill that mission. consequently, informing the public must be the cornerstone of any discussion about procurement or any information related question. Centralized printing procurement supports this process of informing the public by assuring that the information to be provided to the public flows through a central administrative office.

QUESTION#3

Electronic bid dissemination and electronic commerce are inevitable. We support the inevitable.

QUESTION #4

Private sector companies involved in providing printing companies with bid solicitation information are value added services which will be needed by many companies for the foreseeable future. Many PIA members are still not connected to the World Wide Web or do not have the level of computer sophistication necessary to be comfortable with electronic bidding and electronic commerce. These companies will continue to relay on private companies for critical value added services.

QUESTION #5

We would be pleased to provide a detailed answer top this question; however, space and time would not permit a thorough answer at this point. There have been several legislative initiative which we have supported which would amend Title 44. Representative Dunn and Collins introduced such a bill in the first session of this Congress.

OUESTION #6

It is inconceivable to us that the federal government does not require its agencies to include as part of their plans to implement programs, a report on how they plan to inform the public about the program, the cost of the communication programs and how they plan to have it produced. This is standard business practice in the private sector. At this point there seems to be little justification for buying communications equipment since no listing exists in the federal

government about how many pieces of printing equipment the government owns, what the capacity is, and what the plans are for future production.

QUESTION #7

Attached is a report we have prepared on anticipated purchases of equipment. If you need additional information, please let us know.

QUESTION #8

The Congress should plan an orderly phase-out of the GPO printing operation. There is no work currently being printed at the GPO which cannot be contracted out.

QUESTION #9

For years, various members of Congress and staffs have operated under the belief that the demands placed on the GPO by the Congress for printing are unique. They are not. The GPO is a captive print shop which is available at any time to perform any volume of work. Congress is paying for that luxury. There are many printing companies which would be willing to provide the same level of service given the same financial commitments by its customer. The more appropriate inquiry is whether the needs of Congress can be fulfilled more efficiently in another manner. They can.

QUESTION #10

The costs would be significantly lower since wage and benefit costs of the GPO are significantly higher than the private sector. Also, equipment manning requirements in the private sector are generally less than the GPO. In order for a private sector company to be involved in the level of work currently performed by the GPO, the Congress would have to make a commitment to that printer so they could reserve press time, order paper, and order supplies as needed. Congress would likewise have to evaluate the commitment over a number of years rather than looking at start up costs or other time limited factors.

QUESTION #11

We have recommended that the depository library function and the requirement to provide a certain number of copies of government information should be subject to a separate appropriation. That could be the basis of the communication plan for agency activities. Agencies which fail to meet their communications responsibilities should be subject to the same review and scrutiny as any program which fails to meet its objectives.

QUESTION #12

The entire federal government desperately needs a policy on electronic publishing to assure that the public's right to know is preserved. Whether this is done through the GPO's centralized procurement system is subordinate to the policy issue.

QUESTION #13

We believe the constitutional issue will continue to be debated until Congress takes action to resolve the matter through legislation. However, the constitutional issue is merely a device to allow agencies to be in the printing business. While it may be ridiculous to be discussing the constitution in the context of an issue of this type, the Executive Branch has raised the question and an answer should be provided through legislation.

QUESTION #14

As with previous questions, as long as legislation is based on time-limited terminology, it will be difficult to meet the technological changes which will inevitable follow the current information revolution. The federal government has an obligation to allow the public to have access to the information it produces other than when that access jeopardizes national security. Also, the public has the right to know that information produced by their tax dollars has been through some process to assure its integrity. There must be a process by which documents are declared "official." to that end, it is going to be necessary for the federal government to develop a policy on information well beyond the current limitations of Title 44. The terms listed in the question are not ones with which we have any unique expertise.

APPENDIX D1

United States District Court for the District of Columbia Washington, D C 20001

96 SEP -3 PM 4:59

Chambers of Royce C. Lamberth United States Bistrict Judge

AUG 1 9 1995

Honorable John Warner Chairman Committe on Rules and Administration United States Senate Washington, D.C. 20510

Honorable Wendell H. Ford Ranking Member Committee on Rules and Administration United States Senate Washington, D.C. 20510

Dear Mr. Chairman and Senator Ford:

Thank you for the opportunity to testify before your Committee on July 24, 1996, on the topic of Public Access to Government Information in the 21st Century.

After reviewing the transcript of my testimony, I would like to take this opportunity to clarify several of my remarks.

Senator Ford asked, on page 17, "How does the judiciary ensure access to those slip opinions to the have-nots who do not have access to the Internet or are unable to use computer technology?"

To clarify my response, an individual without computer access may appear in a clerk's office and review any information in the record, including the final opinion of the court. In addition, a member of the public may ask to review slip opinions in the circuit headquarters' law library. If the individual requests a personal copy of the opinion, a nominal charge is required for copying. An individual may also find copies of court slip opinions at various law libraries operated by universities, law schools, or local governments. Many of these institutions receive free copies of appellate slip opinions through a subscription service offered by the clerk's office in any court of appeals. For individuals interested in status or disposition information on specific cases, many courts also offer automated voice response systems that are accessible from any touch tone phone. However, slip opinions may not be requested through the voice response systems.

Senator Ford followed with a question asking if the law libraries that I referred to were "Depository Law Libraries" and if the Depository Library at the University of Kentucky would receive a copy of an appellate slip opinion. Let me clarify that the judiciary's circuit headquarters' libraries and several of the small, satellite circuit libraries are participants in the Federal Depository Library Program (FDLP). However, each of our circuit libraries receives the hard copies of all appellate court slip opinions directly from each court of appeals clerk's office, not through the regular FDLP dissemination procedures. In addition to the federal court law libraries, other libraries within each circuit may request to be on the court of appeals opinion subscriber list to receive the opinions in hard copy free of charge. We have confirmed that the University of Kentucky law library is on the subscriber list to receive the Sixth Circuit's slip opinions.

Any FDLP library or other interested library or individual who does not receive hard copies of these slip opinions also has access to them, via the Internet, from the law school consortium project that makes available all federal appellate courts' slip opinions at no cost.

On page 23 of the transcript Senator Pell asked if I could provide any examples of where electronic court materials have become inaccessible. It appears from the transcript that I mistakenly heard the Senator to ask if there were examples of court materials becoming accessible. The judiciary is unaware of any electronic court materials having become inaccessible. The judiciary's automation efforts were primarily initiated in the 1980's and all electronic materials continue to be accessible in generally accepted formats and on commonly used media.

I am in receipt of your letter dated August 9, 1996, requesting responses to additional questions and will be providing the Committee with a timely response.

Sincerely, Page C. Londeuth United States District Judge

APPENDIX D2

United States District Court for the District of Columbia Bashington, B C 20001

OCT 3 1998

Chambers of Royce C. Lambeeth United States District Judge

> The Honorable Daniel Patrick Moynihan The United States Senate Washington, D.C. 20510

Dear Senator Moynihan:

In response to your request made during my testimony at the hearing of July 24, 1996 before the Committee on Rules and Administration regarding Public Access to Government Information in the 21st Century, I offer the following information regarding how the judiciary is able to maintain the confidentiality of its judges' opinions until the time of release to the public.

The confidentiality of the judges' opinions is attributable to three primary reasons and all are probably equal in terms of importance. First is the culture of the judiciary and environment in which the judges and judiciary staff work; second is the reputable contractors used by the judiciary to print and distribute appellate slip opinions; and, third are the security features designed into the judiciary's operational procedures, which are supported by the judiciary's automation program.

The Administrative Office's Computer Security and Independent Testing Office provides security-related procedures, guidance, and assistance to courts and works through court representatives to encourage and provide computer security awareness training in the courts. This office works with several other agencies to acquire security assistance and documentation, and at this time it is also receiving significant assistance from the National Security Agency (NSA). NSA has begun an Information Security Assessment for the AO and it will be expanded to include a number of representative courts. This effort will identify further requirements for actions the judiciary can take to increase its information security posture.

I appreciate your interest in the judiciary's security measures. If you require additional information, please contact me.

Sincerely,

Royce C. Lamberth

United States District Judge

APPENDIX D3



U. S. Department of Justice

Office of Legal Counsel

Office of the Assistant Attorney General Washington, D.C 20530

May 31, 1996

MEMORANDUM FOR EMILY C. HEWITT GENERAL COUNSEL, GENERAL SERVICES ADMINISTRATION

From: Walter Dellinger \5\
Assistant Attorney General

Re: Government Printing Office Involvement in Executive Branch Printing

You have asked us to analyze the constitutional implications of the involvement of the Government Printing Office ("GPO") in executive branch printing and duplicating under the authority of section 207(a) of the Legislative Branch Appropriations Act, 1993, Pub. L. No. 102-392, 106 Stat. 1703, 1719 (1992) (codified at 44 U.S.C. § 501 note), which was recently amended by section 207(2) of the Legislative Branch Appropriations Act, 1995, Pub. L. No. 103-283, 108 Stat. 1423, 1440 (1994). You have also posed a more general question as to "whether GPO may undertake any decision-making role in printing for the Executive Branch." While we have previously expressed our tentative view that such legislative branch involvement in executive branch affairs would contravene separation of powers principles,2 we now face the issue in the context of a specific congressional enactment investing in the GPO the authority to control a significant proportion of executive branch printing and duplicating. See 44 U.S.C. § 501 note. We find that the GPO is subject to congressional control, and conclude that the GPO's extensive control over executive branch printing is unconstitutional under the doctrine of separation of powers. Finally, we make various observations about potential liability of contracting officers who act consistently with this opinion but contrary to the Comptroller General's view, which we reject.

Letter to Walter Dellinger, Assistant Attorney General, Office of Legal Counsel from Emily C. Hewitt, General Counsel, General Services Administration, (Aug. 23, 1994).

² See, e.g., Memorandum for Sheila F. Anthony, Assistant Attorney General, Office of Legislative Affairs, from Walter Dellinger, Assistant Attorney General, Office of Legal Counsel, Re: Government Printing Provisions in H.R. 3400 and S. 1824 (Apr. 1, 1994) (separation of powers violation would occur if public printer received power to control printing and duplicating operations in executive and judicial branches).

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In the early years of the Republic, Congress endeavored to devise a satisfactory contract-based system for printing its official documents. In 1846, for example, Congress established an orderly contract process "for supplying the Senate and House of Representatives . . . with the necessary printing for each[.]" J. Res. of Aug. 3, 1846, § 1, 29th Cong., 1st Sess., 9 Stat. 113, 113. Printing projects "of the respective houses" were divided into classes for which the Secretary of the Senate and the Clerk of the House of Representatives accepted sealed bids. Id. The 29th Congress further established a committee on printing "consisting of three members of the Senate and three members of the House." Id., § 2, 9 Stat. at 114. The committee on printing was entrusted with "[the] power to adopt such measures as may be deemed necessary to remedy any neglect or delay on the part of the [chosen low-bid] contractor to execute the work ordered by Congress, and to make a pro rata reduction in the compensation allowed, or to refuse the work altogether, should it be inferior to the standard[.]" Id.

The contract system devised in 1846 apparently proved unsatisfactory. The 32d Congress revisited the subject of public printing only six years later and added structure and oversight to the basic framework established in 1846. See J. Res. of Aug. 26, 1852, 32d Cong., 1st Sess., 10 Stat. 30. The 32d Congress created the position of "superintendent of the public printing," set qualification requirements for the position, and directed the superintendent of the public printing to serve as a clearinghouse for the printing projects of the Congress and the departments and bureaus of the executive branch. Id., § 3, 10 Stat. at 31. Congress chose to retain the contract-based approach to printing, however, and assigned to the superintendent of the public printing the tasks of soliciting bids for public printing work and delivering the materials submitted by Congress and the executive branch "to the public printer or printers in the order in which it shall be received, unless otherwise ordered by the joint committee on printing." Id., §§ 3-4, 10 Stat. at 31.

The 32d Congress also provided for the election of "a public printer for each House of Congress, to do the public printing for the Congress for which he or they may be chosen, and such printing for the executive departments and bureaus of the government of the United States as may be delivered to him or them to be printed, by the superintendent of the public printing." Id., § 8, 10 Stat. at 32. Congressional dissatisfaction with the slow pace of public printing was manifest. The 32d Congress set a 30-day deadline for each public printing project, id., § 5, 10 Stat. at 32, and expressly stated that "the public printer or printers may be required by the superintendent [of the public printing] to work at night as well as through the day upon the public printing, during the session of Congress, when the exigencies of the public service require it." Id., § 10, 10 Stat. at 34. Finally, the 32d

³ Congress explained that the "superintendent shall be a practical printer, versed in the various branches of the arts of printing and book-binding, and he shall not be interested directly or indirectly in any contract for printing for Congress or for any department or bureau of the government of the United States." J. Res. of Aug. 26, 1852, § 2, 10 Stat. at 31.

Congress created the Joint Committee on the Public Printing to resolve disputes "between the superintendent of the public printing and the public printer," id., § 12, 10 Stat. at 34, and to adopt such measures as may be deemed necessary to remedy any neglect or delay in the execution of the public printing" of the Congress. Id., § 12, 10 Stat. at 35.

In 1860, Congress completely overhauled the public printing system. J. Res. of June 23, 1860, 36th Cong., 1st Sess., 12 Stat. 117. The 36th Congress "authorized and directed" the superintendent of public printing "to have executed the printing and binding authorized by the Senate and House of Representatives, the executive and judicial departments, and the Court of Claims." Id., § 1, 12 Stat. at 117. More importantly, the 36th Congress completely abandoned the contract printing system by creating the GPO.4 Specifically, the 36th Congress granted the superintendent of public printing sweeping authority to contract for "the necessary buildings, machinery, and materials" and to hire all "hands necessary to execute the orders of Congress and of the executive and judicial departments, at the city of Washington." Id., §§ 1-2, 12 Stat. at 117; see also United States v. Allison, 91 U.S. 303, 304 (1875) ("This resolution dispensed with the public printers appointed by the two Houses of Congress, and placed the whole subject of public printing in charge of the superintendent."). At that point in time, the GPO was simply conceptualized as a more expeditious and less partisan alternative to the existing contract system of public printing. See Applicability of Post-Employment Restrictions on Dealing with Government to Former Employees of the Government Printing Office, 9 Op. O.L.C. 55, 56-57 (1985).

The 39th Congress tightened the legislative branch's control over the GPO by creating the office of "Congressional printer" and abolishing the position of superintendent of public printing. Act of Feb. 22, 1867, ch. 59, §§ 1-3, 14 Stat. 398-99. See also Allison, 91 U.S. at 306 (congressional printer "was given the same powers as the superintendent of public printing"). Under the terms of the 1867 enactment, the Senate was empowered to "elect some competent person, who shall be a practical printer, to take charge of and manage the government printing office." Id., § 1, 14 Stat. at 398. The congressional printer was "deemed an officer of the Senate," id., § 2, 14 Stat. at 398, and was directed to "superintend the execution of all the printing and binding for the respective departments of the government now required by law to be executed at the government printing office." Id., § 2, 14 Stat. at 399 (emphasis added). Thus, the 39th Congress not only declared that the head of the GPO was its own officer, but also set forth its assumption that the executive branch was obligated to submit printing and binding projects to the GPO.

In 1895, Congress consolidated the GPO's control over public printing but changed the method for selecting the head of the GPO. Act of Jan. 12, 1895, ch. 23, 53d Cong., 3d Sess., 28 Stat. 601 ("1895 Act"). In section 17 of the 1895 Act, Congress created the position of public printer and prescribed an appointment process modeled after the

^{*} Congress chose to retain the contract system for obtaining "all paper which may be necessary for the execution of the public printing[.]" J. Res. of June 23, 1860, § 7, 12 Stat. at 118-19.

Appointments Clause, U.S. Const. art. II, § 2, cl. 2: "The President of the United States shall nominate and, by and with the advice and consent of the Senate, appoint a suitable person, who must be a practical printer and versed in the art of bookbinding, to take charge of and manage the Government Printing Office." 1895 Act, § 17, 28 Stat. at 603.

The 1895 Act extended the exclusive domain of the public printer to virtually all printing operations throughout the entire federal government. Specifically, section 87 of the 1895 Act decreed that "[a]ll printing, binding, and blank books for the Senate or House of Representatives and for the Executive and Judicial Departments shall be done at the Government Printing Office, except in cases otherwise provided by law." Id. § 87, 28 Stat. at 622. Additionally, section 31 of the 1895 Act dictated that "[a]ll printing offices in the Departments now in operation, or hereafter put in operation, by law, shall be considered a part of the Government Printing Office, and shall be under the control of the Public Printer[.]" Id., § 31, 28 Stat. at 605. Finally, section 31 stated that "[a]ll persons employed in said printing offices and binderies [in the Departments] shall be appointed by the Public Printer, and be carried on his pay roll the same as employees in the main office, and shall be responsible to him[.]" Id. Thus, in the 1895 Act, Congress took the position that the GPO controlled virtually all printing and binding work in all three branches of the federal government.

The 65th Congress used an appropriations bill passed in 1919 to make explicit what had been implicit in prior public printing legislation: the GPO was subordinated to the Joint Committee on Printing, which effectively controlled the allocation of the printing and binding work of the executive and judicial branches. See Act of Mar. 1, 1919, Pub. L. No. 65-314. § 11, 40 Stat. 1213, 1270 ("1919 Act"). Section 11 of the 1919 Act granted to the Joint Committee on Printing the "power to adopt and employ such measures as, in its discretion, may be deemed necessary to remedy any neglect, delay, duplication, or waste in the public printing and binding and the distribution of Government publications[.]" Id. Moreover, the 1919 Act mandated that "on and after July 1, 1919, all printing, binding, and blank-book work for Congress, the Executive Office, the judiciary, and every executive department, independent office, and establishment of the Government shall be done at the Government Princing Office[.]" Id. The 65th Congress provided for only one exception to the rigid rule that all printing must be performed by the GPO: "such classes of work as shall be deemed by the Joint Committee on Printing to be urgent or necessary to have done elsewhere than in the District of Columbia for the exclusive use of any field service outside of said District." <u>Id.</u>

One year after Congress passed the 1919 Act, President Wilson took action to curtail the expanding role of the Joint Committee on Printing. "On May 13, 1920, President Wilson vetoed an appropriation Act on the ground that it contained a proviso that certain

⁵ <u>Cf.</u> U.S. Const. art. II, § 2, cl. 2 (President "shall nominate, and by and with the Advice and Consent of the Senate, shall appoint" Officers of the United States).

documents should not be printed by any executive branch or officer except with the approval of the Joint Committee on Printing." Constitutionality of Proposed Legislation Affecting Tax Refunds, 37 Op. Att'y Gen. 56, 62 (1933) ("Legislation Affecting Tax Refunds"). In explaining his decision to veto the bill, President Wilson offered the following comments:

I regard the provision in question as an invasion of the province of the Executive and calculated to result in unwarranted interference in the processes of good government, producing confusion, irritation, and distrust. The proposal assumes significance as an outstanding illustration of a growing tendency which I am sure is not fully realized by the Congress itself and certainly not by the people of the country.

<u>Id.</u> at 62-63 (quoting veto message of President Wilson). Thus, despite initial executive branch acquiescence in the involvement of the GPO in the printing work of executive departments and bureaus, the executive branch promptly objected to the explicit insertion of the Joint Committee on Printing into executive functions.

In 1949. Congress reaffirmed that "all printing, binding, and blank-book work" for the executive and judicial branches had to be done at the GPO unless the Joint Committee on Printing authorized some other arrangement. Act of July 5, 1949, Pub. L. No. 81-156, 63 Stat. 405, 406 (1949). The 81st Congress, however, expressly exempted the Supreme Court of the United States from this requirement, 6 id., thereby effectively minimizing the influence of the legislative branch with respect to judicial branch printing. The 81st Congress offered no justification for treating the printing projects of the executive and judicial branches differently, but did indicate generally that the legislation was intended "to modify the law in order to permit essential Government printing to be produced in the-best interest of the Government." H.R. Rep. No. 841, 81st Congress, 1st Sess. 1 (1949), reprinted in 1949 U.S. Code Cong. Serv. 1515, 1515. Although the 81st Congress conceded "that obvious savings of time and expense can be effected by producing much printing within the area where use is required," approval of such action by the Joint Committee on Printing remained a prerequisite for all executive branch printing "within the area where use is required." Id.

The modern legislative scheme governing public printing was enacted in 1968 by the 90th Congress, which produced an act collecting all of the public printing provisions in Title 44 of the United States Code. See Act of Oct. 22, 1968, Pub. L. No. 90-620, 82 Stat.

⁶ The printing of the Supreme Court traditionally had been treated in a different manner than executive and legislative branch printing. <u>See Supreme Court Expenses</u>, 8 Op. Att'y Gen. 219, 222 (1856).

⁷ The public printing initiative resulted from congressional concern that "many laws ha[d] been enacted" affecting the printing scheme set forth in the 1895 Act, but these laws had not uniformly amended the 1895 Act, "with the result that the body of printing laws ha[d] grown haphazardly." S. Rep. No. 1621, 90th Cong., 2d Sess. 1 (1968), reprinted in 1968 U.S.C.C.A.N. 4438, 4439.

1238 (1968) ("1968 Act"). The 1968 Act purported "to restate in comprehensive form. without substantive change, the statutes in effect on January 14, 1968, relating to public printing and documents[.]" S. Rep. No. 1621, 90th Cong., 2d Sess. 1 (1968), reprinted in 1968 U.S.C.C.A.N. 4438, 4438-39. Therefore, the initial version of Title 44 contained the requirement that "[a]ll printing, binding, and blank-book work for Congress, the Executive Office, the Judiciary, other than the Supreme Court of the United States, and every executive department, independent office and establishment of the Government, shall be done at the Government Printing Office[.]" 1968 Act, § 501, 82 Stat. at 1243. Likewise, the two exceptions to this rule remained in place: (1) "classes of work the Joint Committee on Printing considers to be urgent or necessary to have done elsewhere"; and (2) printing in field printing plants operated by an executive department, independent office or establishment, and the procurement of printing by an executive department, independent office or establishment from allotments for contract field printing, if approved by the Joint Committee on Printing." Id. In other words, all executive branch printing had to be performed at the GPO unless the Joint Committee on Printing authorized some other arrangement.

Once Congress collected and codified all of the public printing provisions in Title 44, few changes in the statutory scheme took place for several decades. In 1990, however, the 101st Congress reinforced the GPO's monopoly on executive branch printing with a public printing provision inserted in the Legislative Branch Appropriations Act, 1991 ("1991 Act"). Pub. L. No. 101-520, 104 Stat. 2254 (1990). Section 206 of the 1991 Act foreclosed the use of federal funds in most instances to procure printing from any commercial source unless the GPO was involved in the transaction. Id., § 206, 104 Stat. at 2274. The "printing" subject to this restriction included "the process of composition, platemaking, presswork, binding, and microform, and the end items of such processes." Id., § 206(c), 104 Stat. at 2274.

Two years later, the 102d Congress used another legislative branch appropriations act to broaden the language of the provision prohibiting public printing by commercial sources without the involvement of the GPO. See Legislative Branch Appropriations Act, 1993 ("1993 Act"), Pub. L. No. 102-392, § 207, 106 Stat. 1703, 1719-20 (1992). The 1993 Act expanded the proscription to include the expenditure of any funds appropriated in any fiscal year for any printing from any source other than the GPO. Id., § 207(a)(1), 106 Stat. at 1719. The 1993 Act also added "silk screen processes" to the definition of "printing," id., § 207(a)(3), 106 Stat. at 1720, thereby enlarging the scope of the GPO's exclusive domain.

Congress's effort to accord the GPO control over executive branch printing reached its zenith in 1994 with the passage of the Legislative Branch Appropriations Act, 1995 ("1995 Act"), Pub. L. No. 103-283, 108 Stat. 1423 (1994). Section 207(2) of the 1995 Act expanded the definition of "printing" subject to GPO control to include "duplicating." <u>Id.</u>, §

207(2), 108 Stat. at 1440. Thus, the principal statutory provision restricting executive branch printing, which is codified at 44 U.S.C. § 501 note currently reads as follows:

- (1) None of the funds appropriated for any fiscal year may be obligated or expended by any entity of the executive branch for the procurement of any printing related to the production of Government publications (including printed forms), unless such procurement is by or through the Government Printing Office.
- (2) Paragraph (1) does not apply to (A) individual printing orders costing not more than \$1,000, if the work is not of a continuing or repetitive nature, and, as certified by the Public Printer, if the work is included in a class of work which cannot be provided more economically through the Government Printing Office, (B) printing for the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or (C) printing from other sources that is specifically authorized by law.
- (3) As used in this section, the term "printing" includes the processes of composition, platemaking, presswork, duplicating, silk screen processes, binding, microform, and the end items of such processes.

Although President Clinton approved the 1995 Act, he issued a signing statement that expressed serious concerns about the ever-increasing "involvement of the Public Printer and the Government Printing Office in executive branch printing related to the production of Government publications." Statement by President William J. Clinton Upon Signing the Legislative Branch Appropriations Act of 1995, H.R. 4454, 30 Weekly Comp. Pres. Doc. 1541, 1542 (July 22, 1994). Specifically, the President's statement framed the constitutional issues this way:

The Act raises serious constitutional concerns by requiring that executive branch agencies receive a certification from the Public Printer before procuring the production of certain Government documents outside of the Government Printing Office. In addition, the Act expands the types of material that are to be produced by the Government Printing Office beyond that commonly recognized as "printing."

Id. To ameliorate the perceived constitutional defects in 44 U.S.C. § 501 note, the President chose to interpret the amendments to the public printing provision narrowly. <u>See, e.g.</u>, <u>Communications Workers v. Beck</u>, 487 U.S. 735, 762 (1988) ("federal statutes are to be

⁸ Chapter 11 of Title 44, United States Code, contains a host of statutory provisions dealing with the general subject of executive and judicial branch printing. See 44 U.S.C. §§ 1101-1123. Those statutes, however, focus primarily upon the logistical concerns of the public printer in responding to printing orders from the executive and judicial branches.

construed so as to avoid serious doubts as to their constitutionality"). First, the President expressed his intention to restrict "the exclusive authority of the Government Printing Office" over executive branch printing "to procurement of documents intended primarily for distribution to and use by the general public." Statement by President William J. Clinton, 30 Weekly Comp. Pres. Doc. at 1542. Second, the President interpreted the concept of "duplicating" to "encompass only the reproduction inherent in traditional printing processes, such as composition and presswork, and not reproduced by other means, such as laser printers or photocopying machines." Id.

The legislative branch did not accept President Clinton's narrowing construction of 44 U.S.C. § 501 note. In response to an inquiry from Senator Wendell H. Ford, the Chairman of the Joint Committee on Printing, the Comptroller General issued an opinion concluding that, in virtually all instances, "executive agencies procuring duplicating services involving the use of high-speed duplicating equipment must do so through the GPO[.]" B-251481.4 (C.G. Sept. 30, 1994). Thus, the interpretations of 44 U.S.C. § 501 note espoused by the executive branch and the legislative branch are in direct conflict. Faced with these divergent views, you asked us for "an interpretation of the proper construction of Title 44 of the U.S. Code." We conclude that, to the extent that 44 U.S.C. §§ 501 & 501 note require all executive branch printing and duplicating to be procured by or through the GPO, those statutes violate constitutional principles of separation of powers and that executive branch departments and agencies are not obligated to procure printing by or through the GPO.

П

The constitutional doctrine of separation of powers prohibits Congress from performing functions that are not legislative or in aid of the legislative process. Except through the passage of legislation, Congress may not seek to control the performance of functions that are "beyond the legislative sphere." See Bowsher v. Synar, 478 U.S. 714, 733-34 (1986); see also Metropolitan Washington Airports Auth. v. Citizens for the Abatement of Aircraft Noise, 501 U.S. 252, 274 (1991) ("MWAA") (separation of powers doctrine is directed at "forestall[ing] the danger of encroachment 'beyond the legislative sphere'"); INS v. Chadha, 462 U.S. 919 (1983); Hechinger v. Metropolitan Washington Airports Auth., 36 F.3d 97 (D.C. Cir. 1994), cert. denied, 115 S. Ct. 934 (1995); FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993), cert. dismissed, 115 S. Ct. 537 (1994); cf. Buckley v. Valeo, 424 U.S. 1, 137-41 (1976) (per curiam).

In <u>Bowsher</u>, for example, the Supreme Court held that Congress violated the doctrine of separation of powers by vesting non-legislative functions in an official who was subject to Congress's control. <u>Bowsher</u> involved the Balanced Budget and Emergency Deficit Control Act of 1985. That statute established maximum federal budget deficits for each of the succeeding five years. If the projected deficit for any year exceeded the statutory maximum, the Comptroller General was to specify for the President spending reductions necessary to bring the deficit under the designated ceiling. The President was then required to issue a sequestration order effectuating the Comptroller General's cuts. 478 U.S. at 717-18. The

Comptroller General is appointed by the President from a list of nominees submitted by the Congress and "is removable only at the initiative of Congress." Id. at 728 (Comptroller General may be removed by joint resolution of Congress finding one of five statutorily enumerated causes).

The Court characterized the Act as giving the Comptroller General executive functions. id. at 733, but did not hold that the Comptroller General is an agent of Congress. If it had, the Court's holding would have been the unremarkable observation that Congress may not vest itself or one of its agents with executive authority. The Act, however, did not give Congress any formal authority to vote on or dictate any particular of how the Comptroller General would exercise the executive functions that the Act conferred upon him. In other words, Congress had no formal power over the exercise of the Comptroller General's executive functions. Nevertheless, the Court viewed the removal power as giving Congress the ability to coerce the Comptroller General to conform to the "legislative will". See id. at 729.

Thus, the constitutional doctrine of separation of powers forbids Congress from vesting non-legislative functions -- specifically, in the case of your inquiry, executive functions -- in the GPO if Congress retains control over the GPO. First, we will examine the extent to which Congress controls the GPO. Then, we will determine whether the functions that the GPO performs may be characterized as falling within the legislative sphere.

A. Congressional Control of the GPO

One significant indication of control is whether Congress perceives an agency or official as its agent or as an entity of the legislative branch. See Bowsher, 478 U.S. at 731-32. The GPO, since its inception, has been conceptualized as a congressional entity. 10 See

The GPO argues that <u>Bowsher</u> only prohibits vesting executive functions in officials over whom Congress holds the power of removal. Letter to Walter Dellinger, Assistant Attorney General, Office of Legal Counsel from Anthony J. Zagami, General Counsel, United States Government Printing Office, , at 1 (Sept. 22, 1994). We agree that the President may remove the public printer at will. Further, we agree that non-legislative functions may not be vested in an official who is removable by Congress. Nevertheless, we cannot read <u>Bowsher</u> as applying exclusively to those officials who are removable by Congress. The Supreme Court could not have been clearer in holding that the Constitution prohibits Congress from retaining any sort of control that allows it to exert its "legislative will" outside the legislative sphere. <u>See, e.g.</u>, 478 U.S. at 729-32 (discussing significance of Congress's view that the Comptroller General is within the legislative branch).

¹⁰ Indeed, in 1867, Congress expressly declared that the GPO was to be run by the congressional printer, who was elected by the Senate and "deemed an officer of the Senate." Act of Feb. 22, 1867, ch. 59, §§ 1-2, 39th Cong., 2d Sess., 14 Stat. 398-99 (1867). The major public printing reform of 1895 gave rise to the position of public printer and prescribed a new method for selecting this head of the GPO -- nomination by the President and appointment "by and with the advice and consent of the Senate." 1895 Act. § 17 28 Stat. at 603. This selection system, however, did not necessarily transform the Public Printer into an officer of the executive branch. See Bowsher, 478 U.S. at 758 n.25 (Stevens, J., concurring) (identifying Public Printer as "obvious congressional agent[]" despite appointment by President); cf. also Mistretta v. United States, 488 U.S. 361,

Allison, 91 U.S. at 307 (head of GPO "is more responsible to Congress than to any other authority"). "Discussion of the GPO's role in government, both in Congress and by GPO officials themselves, has consistently indicated that 'the Joint Committee on Printing . . . constitute[s], in fact, a board of directors' for the GPO, and that the GPO 'is, and was, designed to be primarily under the control of Congress." International Graphics, Div. of Moore Business Forms, Inc. v. United States, 4 Cl. Ct. 186, 197 (1983). Moreover, the Comptroller General has consistently concluded that the GPO "is under the legislative branch of the Government." 36 Comp. Gen. 163, 165 (1956); 29 Comp. Gen. 388, 390 (1950). In addition, the Courts have taken the same view. See, e.g., Thompson v. Sawyer. 678 F.2d 257, 264 (D.C. Cir. 1982) (GPO "is a unit of the legislative branch"); accord Lewis v. Sawyer, 698 F.2d 1261, 1262 n.2 (D.C. Cir. 1983) (Wald, J., concurring) (GPO is "a legislative unit performing a support function for Congress"); International Graphics. 4 Cl. Ct. at 197 ("GPO appears to be a unit of the legislative branch").

The Supreme Court has also noted that an official is subservient to the branch of government that has the authority to control and supervise the conduct of that official's functions. See Bowsher, 478 U.S. at 730. On this score, both the Public Printer and the GPO are beholden to Congress in several significant respects. As we have previously explained:

The Congressional Joint Committee on Printing ("JCP") retains supervisory control over a host of GPO's functions. See, e.g., 44 U.S.C. § 103 (power to remedy neglect, delay, duplication, and waste); id. § 305 (approval of GPO employees' pay); id. § 309 (revolving fund available for expenses authorized in writing by the JCP); id. § 312 (requisitioning of materials and machinery with approval of the JCP); id. § 313 (examining board consisting of GPO personnel and a person designated by the JCP); id. § 502 (approval of contract work); id. § 505 (regulation of sale of duplicate plates); id. §§ 509-517 (approval of paper contracts); id. § 1914 (approval of measures taken by the Public Printer to implement the depository library program)[.]

Applicability of Post-Employment Restrictions on Dealing with Government to Former Employees of the Government Printing Office, 9 Op. O.L.C. 55, 57 (1985) (footnote omitted). What we deduced in 1985 is equally accurate today: "This relationship to

^{408-11 (1989) (}members of Sentencing Commission in judicial branch appointed and subject to removal by President). In any event, while the 1895 modification of the appointment process may have reduced the direct control of Congress over the GPO, the 1919 Act firmly established the preeminence of the JCP -- composed of members of Congress -- in matters of public printing. See 1919 Act, § 11, 40 Stat. at 1270.

¹¹ In ascribing to Congress the views of the Comptroller General, we are fortified by the Supreme Court's decision in <u>Bowsher</u>, which held that Congress controls the Comptroller General. <u>See</u> 478 U.S. at 727-32.

Congress appears to preclude a conclusion, either in fact or as a constitutional matter, that the GPO is not an arm of Congress." Id. (citation omitted).

Given the level of control over the GPO that Congress exercises today through the JCP. ¹² as well as the history of the relationship between the GPO and Congress, we believe that the GPO is subject to the sort of control that Congress may not exercise over an actor that performs non-legislative functions. ¹³ We now turn to consider whether the GPO's functions fall outside the legislative sphere.

B. The Nature of GPO's Functions

44 U.S.C. § 501 establishes that "[a]ll printing, binding, and blank-book work for Congress, the Executive Office, the Judiciary, other than the Supreme Court of the United States, and every executive department, independent office and establishment of the Government, shall be done at the Government Printing Office[.]"¹⁴ Subsection (1) of 44 U.S.C. § 501 note bolsters the provision granting the GPO exclusive control of virtually all the printing work of the executive branch: "None of the funds appropriated for any fiscal year may be obligated or expended by any entity of the executive branch for the procurement of any printing related to the production of Government publications (including printed forms), unless such procurement is by or through the Government Printing Office." "Printing" is defined in subsection (3) of 44 U.S.C. § 501 note to include "the processes of composition, platemaking, presswork, duplicating, silk screen processes, binding, microform, and the end items of such processes." By enacting these statutory provisions, Congress has

¹² The JCP, which "consist[s] of the chairman and four members of the Committee on Rules and Administration of the Senate and the chairman and four members of the Committee on House Administration of the House of Representatives[,]" 44 U.S.C. § 101, is undeniably a congressional entity.

We need not determine whether Congress has ever actually sought to exert the control that it, by statute, has retained. The mere existence of this ability to control the GPO raises the separation of powers bar against vesting the GPO with non-legislative functions. See Bowsher, 478 U.S. at 730 (dismissing as beside the point Justice White's vigorous argument that "[r]ealistic consideration of the nature of the Comptroller General's relation to Congress... reveals that the threat to separation of powers... is wholly chimerical." Id. at 774 (White, J., dissenting)).

¹⁴ Section 501 contains two exceptions to this sweeping rule; both of the exceptions require the approval of the JCP. 44 U.S.C. §§ 501(1) & 501(2). In 1984, we declared the JCP approval provisions unconstitutional with respect to operations outside the legislative branch. Memorandum for William H. Taft, IV, Deputy Secretary of Defense, from Theodore B. Olson, Assistant Attorney General, Office of Legal Counsel, Re: Effect of INS v. Chadha on 44 U.S.C. § 501, "Public Printing and Documents", at 3-6 & n.5 (Mar. 2, 1984); Constitutionality of Proposed Regulations of Joint Committee on Printing, 8 Op. O.L.C. 42, 51 & n.14 (1984).

Subsection (2) of 44 U.S.C. § 501 note sets forth three exceptions to this sweeping prohibition. These exceptions include printing for the Central Intelligence Agency, the Defense Intelligence Agency, and the National Security Agency, as well as all printing for other sources that is specifically authorized by law In addition, subsection (2) creates an exception for small printing orders. The exception for small printing orders, which requires the certification of the public printer, is discussed in section III(B) of this opinion.

forbidden the executive branch to expend funds on printing that is not procured by or through the GPO.

Congress may create and empower an entity such as the GPO to provide printing in aid of its legislative function. Cf. Chadha, 462 U.S. at 956 n.21 (recognizing authority of each House of Congress "to act alone in determining specified internal matters"). However, when Congress dictates that all executive branch printing and duplicating must be procured by or through the GPO, see 44 U.S.C. §§ 501 & 501 note the GPO necessarily acts outside the legislative sphere.

The GPO implicitly concedes ---as it must -- that its involvement in executive branch printing is beyond the legislative sphere, but asserts that such action does not violate separation of powers principles because its duties with regard to executive branch printing "are essentially ministerial and mechanical so that their performance does not constitute execution of the law in a meaningful sense." <u>Bowsher</u>, 478 U.S. at 732. We doubt that the doctrine of separation of powers permits Congress to control functions outside the legislative sphere as long as such aggrandizement is in some sense <u>de minimis</u>. We need not resolve that issue here, however, because the experience of executive branch agencies under recent amendments to 44 U.S.C. § 501 note belies the GPO's characterization of its authority.

Under the current public printing regime, the GPO is obligated to "execute such printing and binding for the President as he may order and make requisition for." 44 U.S.C. § 1101. Nevertheless, the GPO controls the timing of and the production of all printing work for the executive branch. 44 U.S.C. §§ 501 & 501 note. The public printer also determines "the form and style in which the printing or binding ordered by a department is executed, and the material and the size of type used[.]" 44 U.S.C. § 1105. Moreover, any executive branch officer in possession of printing equipment "no longer required or authorized for his service" must "submit a detailed report of them to the Public Printer." 44 U.S.C. § 312. The Public Printer possesses the statutory authority to "requisition such articles," which must then "be promptly delivered" to the GPO. 17 Id. In sum, what began

¹⁶ The United States Court of Appeals for the District of Columbia Circuit has held that a congressionally controlled entity may not be given authority to delay an executive function. See Hechinger v. Metropolitan Washington Airports Auth., 36 F.3d 97 (D.C. Cir. 1994), cert. denied, 115 S. Ct. 934 (1995).

The GPO and JCP have used this authority to strip executive branch agencies of their ability to engage in printing and duplicating. The experience of the Department of Veterans Affairs regional office in Philadelphia. Pennsylvania is illustrative. On March 26, 1993, the JCP advised the Secretary of Veterans Affairs that the regional office "ha[d] acquired a two color printing press and [was] conducting printing activities without the concurrence of this Committee. Letter to Hon. Jesse Brown, Secretary of Veterans Affairs from Hon. Wendell H. Ford, Chairman, Joint Committee on Printing, (March 26, 1993). The JCP instructed the Secretary of Veterans Affairs to "review this matter and take immediate action to transfer all printing requirements to the nearest Government Printing Office Regional Procurement Office and comply with section 312, 44 U.S.C. for disposition of this unauthorized equipment." Id. Ten months later, Senator Wendell Ford wrote to the

as a cooperative arrangement in 1860 that was mutually beneficial to the executive and legislative branches has become a system by which Congress -- acting primarily through the GPO and the JCP -- maintains an ever-increasing degree of control over executive branch printing. Because the GPO is subject to congressional control and because the GPO performs executive functions, we conclude that the language in 44 U.S.C. §§ 501 & 501 note requiring the executive branch to procure all of its printing by or through the GPO is unconstitutional and, therefore, inoperative.

C. Certification

You have also directed our attention to a provision of 44 U.S.C. § 501 note that you regard as inconsistent with Chadha. Specifically, subsection (2) of 44 U.S.C. § 501 note excludes from the class of printing work subject to GPO control "individual printing orders costing not more than \$1,000, if the work is not of a continuing or repetitive nature, and, as certified by the Public Printer, if the work is included in a class of work which cannot be provided more economically through the Government Printing Office[.]" Whether this provision involving discretionary certification by the public printer is understood as the exercise of legislative power or executive power, it plainly runs afoul of separation of powers principles. "If the power is executive, the Constitution does not permit an agent of Congress to exercise it. If the power is legislative, Congress must exercise it in conformity with the bicameralism and presentment requirements of Art. I, § 7" of the Constitution. MWAA, 501 U.S. at 276. As we have previously explained in the context of a public printing dispute, any statute that permits a congressional agent "to effect an exception to a legislated rule" is unconstitutional. See Memorandum for William H. Taft, IV, Deputy Secretary of Defense, from Theodore B. Olson, Assistant Attorney General, Office of Legal Counsel, Re: Effect of INS v. Chadha on 44 U.S.C. § 501, "Public Printing and Documents", at 4-5 n.5 (Mar. 2, 1984).

Although we have found a fatal constitutional defect in the statutory provision granting the public printer the authority to except certain small printing orders from the

Department of Veterans Affairs in his capacity as Chairman of the JCP to express dissatisfaction with the Department's response. Senator Ford demanded executive branch compliance with the desires of the JCP:

I ask that your Inspector General readdress these issues and that the Headquarters printing management organization be involved to facilitate the orderly transfer of work to GPO. I have asked the Public Printer to have his staff contact appropriate departmental officials to expedite this process. At your earliest convenience, please provide the Joint Committee with a listing of all printing and duplicating equipment, including its age, condition and cost, now on site at [the regional office in Philadelphia]. Please immediately remove the two color press and any similar equipment from this site in accordance with the provisions of section 312, 44 USC.

Letter to Hon. Jesse Brown, Secretary of Veterans Affairs, from Hon. Wendell H. Ford. Chairman, Joint Committee on Printing, at 1 (Jan. 13, 1994).

control of the GPO, we need not engage in a protracted discussion of the effect of this conclusion upon the balance of subsection (2) of 44 U.S.C. § 501 note. Subsection (2) simply creates an exception to the broad rule of 44 U.S.C. §§ 501 and 501 note, that all executive branch printing must be procured by or through the GPO. Because we have already determined that this requirement runs afoul of separation of powers principles, there is no reason to address the scope of the remaining exceptions to the general requirement.

Ш

It appears that the Comptroller General does not share our view regarding the constitutionality of the GPO's control over executive branch printing. See, e.g., Opinion for Senator Wendell H. Ford, Chairman of the Joint Committee on Printing, B-251481.4 (C.G. Sept. 30, 1994). You have asked whether contracting officers who act in a manner consistent with our opinion and in derogation of the Comptroller General's view will be subject to liability or sanction.

This opinion presents the official view of the executive branch; the Comptroller General's opinion may not carry legally binding effect, although it may be considered for whatever persuasive value it may offer. See Bowsher, 478 U.S., at 733 (holding that statute unconstitutionally entrusted execution of laws to Comptroller General, a unit of the legislative branch, because "[i]nterpreting a law enacted by Congress to implement the legislative mandate is the very essence of 'execution' of the law"); see also Buckley, 424 U.S. at 137-41 (holding that officials whom Congress controls cannot participate in the issuance of advisory opinions that have legally binding effect outside the legislative branch). We further note that neither the Comptroller General nor the Inspectors General may initiate prosecutions on their own. Inspector General Act of 1978, 5 U.S.C. app.; United States v. Nixon, 418 U.S. 683, 693 (1974). Both the Comptroller General and the Inspectors General have the statutory authority to audit and disallow costs, see 31 U.S.C. §§ 3522-3530; 5 U.S.C. app. § 4(a)(1), (b), but these powers cannot be stretched so as effectively to encompass prosecutorial decisions.

With respect to the Comptroller General, the Supreme Court has held that the Constitution does not permit the Comptroller General to exercise authority with respect to executive functions. <u>Bowsher</u>, 478 U.S. at 721-27. Although the Comptroller General may audit expenditures and in the course of doing so may express an opinion as to the propriety of costs incurred, the Comptroller General may not in any legally consequential sense "disallow" an expenditure or cost. Any statute purporting to give the Comptroller General

¹⁸ Separate statutory provisions vest in the Comptroller General the authority to relieve accountable officials and certifying officials of such liability. See 31 U.S.C. §§ 3527-3529. We have determined, however, that this grant of authority to a congressional agent violates separation of powers principles. See Memorandum for Janis A. Sposato, General Counsel, Justice Management Division, from John O. McGinnis, Deputy Assistant Attorney General, Office of Legal Counsel, Re: Comptroller General's Authority To Relieve Disbursing and Certifying Officials From Liability (Aug. 5, 1991).

such authority is invalid. See, e.g., Hechinger v. Metropolitan Washington Airports Auth., 36 F.3d 97 (D.C. Cir. 1994), cert. denied, 115 S. Ct. 934 (1995); Memorandum for Janis A. Sposato. General Counsel, Justice Management Division, from John O. McGinnis, Deputy Assistant Attorney General, Office of Legal Counsel; Re: Comptroller General's Authority To Relieve Disbursing and Certifying Officials From Liability (Aug. 5, 1991). Insofar as this position is not free of litigation risk, see Lear Siegler, Inc., Energy Prods. Div. v. Lehman, 842 F.2d 1102 (9th Cir. 1988), modified as to attorney fees, 893 F.2d 205 (9th Cir. 1989) (en banc); Ameron Inc. v. United States Army Corps of Engineers, 809 F.2d 979 (3d Cir. 1986), cert. granted, 485 U.S. 958 (1988), cert. dismissed, 488 U.S. 918 (1988), only you have asked us whether there are additional specific measures that agencies may take to safeguard contracting officers.

It appears that, except for qui tam suits (which are discussed below), the only entity that could bring a civil or criminal action against a certifying official in court would be the executive branch, and more specifically the Department of Justice. Any actions considered by the Department of Justice would necessarily be in accord with the constitutional views expressed by the President in his signing statement and the opinions of this Office. Consequently, we see little risk to an officer who acts consistently with our interpretation.

Administrative liability poses separate issues, but ones that we believe may be allayed by GSA itself. Congress has attempted to provide an enforcement mechanism for the Anti-Deficiency Act, 31 U.S.C. § 1341(a), and other restrictions on appropriations by holding certain executive branch employees personally liable for amounts illegally authorized or disbursed. For example, 31 U.S.C. § 3528(a) provides that a certifying official is responsible for the legality of the proposed payment on a voucher and for repaying any payments that are illegal, improper, or prohibited by law. The Comptroller General uses the GAO's audit powers to determine what amounts are wrongfully spent or unallowable, and 31 U.S.C. § 3526(a) grants the Comptroller General the power to "settle all accounts of the United States Government and supervise the recovery of all debts finally certified by the Comptroller General as due the Government."

For funds determined to be illegally expended, the government may attempt to collect that debt pursuant to the Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982, Pub. L. No. 97-365, 96 Stat. 1749, 1754 (1982) (codified at 31 U.S.C. § 3701 et seq.). Section 3716 of title 31, United States Code, and various regulations provide for administrative offset to collect claims due the United States, following notice of the prospective offset. 4 C.F.R. pts. 101-105; 41 C.F.R. §§ 105-55.001 to 105-

The Department of Justice has consistently taken the position that these lower court cases were wrongly decided and are inconsistent with the Supreme Court's decision in <u>Bowsher</u>. We continue to adhere to this view and will assert this position if an appropriate case arises. <u>See</u> Brief of United States, <u>Hechinger v. Metropolitan Washington Airports Auth.</u>, No. 94-7036, at 30-33 (D.C. Cir. Apr. 11, 1994).

56.013. O When a current employee owes the debt, the agency may attempt to collect it through administrative offset. 41 C.F.R. § 105-56.001.

Thus, the danger for the certifying officials is that the Comptroller General will determine that a given payment is illegal and that the certifying official is administratively liable for these expenditures. The statutory structure appears to be designed to enforce collection of claims or debts owed to the United States. Section 3711(a) of title 31, United States Code, provides that the head of an executive agency shall try to collect a claim of the United States Government for money or property arising out of the activities of the agency.

The statute also, however, allows the agencies to compromise claims of less than \$100,000, and, pursuant to the GSA's regulations, GSA may decline to collect on a claim when it determines that the claim is legally meritless. 41 C.F.R. § 105-55.008(b); see also 4 C.F.R. § 104.3(d) (joint DOJ and GAO regulations providing for termination of legally meritless claims). GSA could thus offer reassurances to its officers and the agencies contracting with it that any debts found by the Comptroller General to be owed by GSA or other agency officers as a result of payments made on the contracts at issue would be legally without merit. GSA could further assure its employees and the employees of agencies contracting with it for routine photocopying services that it would not seek to recoup such amounts through administrative offset. Although GSA has government-wide authority to collect claims owed the United States through administrative offset, other agencies could offer reassurances to their employees that they would not seek in any way to collect as claims owed the United States amounts determined to fall outside the scope of section 207(a)(1), notwithstanding any contrary determination on the part of the Comptroller General.

Assuming that GSA did not make such a determination in advance, it still could shield executive branch employees from administrative liability on a case-by-case basis. Following a determination by the Comptroller General that a certifying officer owed a debt to the United States, the burden would be on GSA to issue the notice to the employee of the determination that part of his or her salary was to be offset. If it failed to issue the notice of debt, notwithstanding a Comptroller General directive that it do so, the Comptroller General would seem to have no recourse, other than to notify Congress of the dispute. Congress' possible actions would be general ones, against the GSA itself, and not against the particular employee.

³⁰ Federal regulations authorize the GSA to collect, compromise, or terminate collection efforts on debts owed the United States arising from activities under GSA's jurisdiction. All the contracts at issue -- whether GSA is paying for services, or collecting for services rendered - arise under GSA's jurisdiction. See, e.g., 41 C.F.R. pt. 105-55.

The regulations also provide that waivers of liability for government employees, if authorized by law, may be requested from the General Accounting Office. 4t C.F.R. §§ 105-56.004(g), 105-56.005(b). It is unlikely, however, that GAO would authorize a waiver if it determined that payments for the copier rentals would violate section 207.

Even if GSA did perform the offset, it would remain possible, consistent with the regulation, to relieve the contracting official of liability. GSA has the authority promptly to refund an amount already offset when a debt is waived or otherwise found not owing the United States, or when GSA is directed by an administrative or judicial order to refund amounts deducted from the employee's current pay. 41 C.F.R. § 105-56.012. The regulations do not state who may make such a finding. A finding by the Department of Justice or GSA superiors that no debt was owing and that a refund should be made would relieve the officer of individual liability.

The only remaining theoretical risk of exposure would arise from qui tam suits under the False Claims Act, 31 U.S.C. §§ 3729-3733. Such suits would almost assuredly fail, however, because such actions should either be defeated pursuant to a motion to dismiss or on the merits. In brief, in order to state a claim under 31 U.S.C. § 3729, a plaintiff must demonstrate that someone knowingly submitted or caused to be submitted a false or fraudulent claim to the government. If an official simply authorizes payment on a contract lawfully entered into, it is difficult to envision how liability could lie under the False Claims Act. Although, in some situations, False Claims Act cases may be brought against

Any person who -

- (1) knowingly presents, or causes to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the United States a false or fraudulent claim for payment or approval;
- (2) knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government;
- (3) conspires to defraud the Government by getting a false or fraudulent claim allowed or paid;
- (4) has possession, custody, or control of property or money used, or to be used, by the Government and, intending to defraud the Government or willfully to conceal the property. delivers, or causes to be delivered, less property than the amount for which the person receives a certificate or receipt;
- (5) authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true;
- (6) knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Government, or a member of the Armed Forces, who lawfully may not sell or pledge the property; or
- (7) knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government.

⁼ Section 3729(a) establishes liability for:

government officials in their personal capacity, the circumstances at issue here do not appear to give rise to such claims. Even if the officer is required to certify that he or she understands that the claim is being paid in accordance with law, such a certification presumably would not be determined to be a false statement, with respect either to rental contracts or photocopying contracts, given this Office's determination that payment of the contracts would be in accord with the law. The contract would have been clearly authorized at the time it was signed (pursuant to a clear executive branch interpretation of the law), the agency would have authorized all the relevant actions (including payment), and the contractor would have fulfilled its obligations under the contract. Thus, there would be no false statement and the intent element -- knowingly submitting a false statement -- would also be absent.

Even if a matter were filed against an individual certifying officer, the Department of Justice would have the authority to represent the officer. 28 C.F.R. § 50.15. The Department is authorized to undertake such representation when "the actions for which representation is requested reasonably appear to have been performed within the scope of the employee's employment and the Attorney General or his designee determines that providing representation would otherwise be in the interest of the United States." Id. Those circumstances would seem to be present here, although the Civil Division would make the determination regarding representation, whether by the Department or by outside counsel.²³

For the foregoing reasons, we believe that any agency officials involved in the decision to certify or disburse money pursuant to the three types of contracts discussed herein face little or no litigation risk arising from the decision to certify or disburse.

IV

To the extent that 44 U.S.C. §§ 501 and 501 note require all executive branch printing and duplicating to be procured by or through the GPO, those statutes violate constitutional principles of separation of powers. We further find that the provision in subsection (2) of 44 U.S.C. § 501 note authorizing the Public Printer to certify exceptions to the general rule of printing by or through the GPO is unconstitutional, but we need not ascertain the implications of that determination given our conclusion that executive branch departments and agencies are not obligated to procure printing by or through the GPO. Finally, we perceive little or no risk of liability or sanction to contracting officers who act consistently with this opinion.

It should also be noted that, under the False Claims Act, the United States has significant control over suits filed under that Act alleging that the contracting officer somehow submitted a false statement in order to get a claim allowed or paid As a procedural matter, the United States has the opportunity to intervene in a False Claims Act action filed by a relator and may, following intervention, move to dismiss. If the relator objects, however, it has the opportunity to have its objections heard. 31 U.S.C. § 3730(c)(2)(A).

APPENDIX D4



EXECUTIVE OFFICE OF THE PRESIDENT OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

THE DIRECTOR

April 22, 1996

Honorable Michael F. DiMario The Public Printer U.S. Government Printing Office 710 N. Capitol St., N.W. Washington, D.C. 20402

Dear Mr. DiMario:

I would like to take this opportunity to commend you on the excellent performance of your organization in producing the President's FY 1997 Budget. In large part as a result of GPO's careful performance of the tasks in a timely manner, the President's Budget was transmitted to Congress on schedule.

The task of printing the President's Budget this year was especially demanding as a result of an overall compressed schedule and the additional time constraints required for incorporating color graphics used in A Citizen's Guide to the Federal Budget. In spite of these constraints, GPO once again performed with skill, professionalism, and cooperation.

You and your staff are to be commended for your timely production of the FY 1997 Budget books, as well as your assistance on the Budget of the U.S. Government on CD-ROM. We at OMB recognize and appreciate the extra efforts GPO gives to printing the President's Budget.

Sincerely,

Alice M. Rivlin

Great job!

(474)



DEPARTMENT OF THE TREASURY INTERNAL REVENUE SERVICE WASHINGTON, D.C. 20224

APR 22 1996

Michael F. DiMario
Public Printer
U. S. Government Printing Office
710 North Capitol St. N.W.
Washington, D.C. 20401

Dear Mr. DiMario:

On behalf of the Internal Revenue Service, I want to express our appreciation to your staff for their customer service efforts and flexibility in helping us develop a new system of procurement for printed envelopes. During the last few weeks, Bob Cox, Bruce Holstein, Tom Sullivan, Jack Marken and the IRS customer service team of Ralph Russell, Kathy Nemeth and Brek Prior have participated in contract planning meetings for our new envelope procurement system. The assistance offered by these individuals is of great value to our organization. Their commitment to customer service is apparent by their willingness to assist us as we work together to establish this new system.

It is our expectation that by July 1, 1996, we will have a new system in place by which all IRS offices can easily order and receive printed envelopes. I know that through the competent efforts of these individuals, our expectations will be met as we work together to develop new, uncomplicated methods of ordering envelopes for our 500+ offices.

Please extend our thanks to these employees for their efforts. We look forward to working with the GPO as plans come to fruition and we implement this new envelope procurement system. Thank you for the support you provide us.

cc: GPO Customer Service

Sincerely, Lugaria J. Stickell

Raymona L. Stickell National Director

Multimedia Production Division



DEPARTMENT OF THE TREASURY INTERNAL REVENUE SERVICE WASHINGTON, D.C. 20224

APR 1 2 1996

Mr. Michael F. DiMario Public Printer U.S. Government Printing Office 710 North Capitol St. NW Washington, DC 20401

Dear Mr. DiMario:

I would like to take this opportunity to thank you and the employees of the Government Printing Office (GPO) for the outstanding job they did this past year supporting our tax ${\sf CPO}({\sf CPO})$ package program. Their dedication and knowledge of printing industry capabilities were major factors that led to yet another successful year in mailing over 110 million tax packages.

James Leonard, Chief, Contracts Branch, along with Al Awad and Dan Fitzpatrick of his staff, worked diligently in preparing the contracts for solicitation in a timely manner. The contracts required these individuals to provide the technical guidance needed to ensure the finished product met our expectations.

Larry McHugh, Chief, Quality Assurance Section, along with John Kennedy, William Lansky, Edward Reesman, and Frank Gut of his staff, were very supportive to our needs. They attended numerous preproduction meetings along with IRS personnel at contractors' facilities. They were instrumental in reviewing the Quality Plans submitted by these vendors and confirming the ability of these plants to meet those requirements.

Sincerely,

Raymona L. Stickell National Director

Kumora J. Stickell

Multimedia Production Division

cc: Chief, Contracts Branch
 Chief, Quality Assurance Section



DEPARTMENT OF THE AIR FORCE AIR NATIONAL GUARD READINESS CENTER

∆00 Q '00A

ANGRC/CEV 3500 Fetchet Avenue Andrews AFB MD 20762-5157

Mr. Michael F. DiMario RC808/Stop: P USGPO N Capitol & H Street NW Washington DC 20401

Dear Mr. DiMario

On behalf of the Environmental Planning Branch, I would like to extend my appreciation to Mr. Spurgeon Johnson for a job "Well Done".

Mr. Johnson and his co-workers took the time to patiently educate my staff on the process to request work and educated them about the detailed decisions that need to be made for any print job that is requested.

The result was a timely and professional product that will reflect positively on the National Guard.

The high quality of customer service that my staff received from Mr. Johnson was above and beyond what was expected and we look forward to working with him again in the future.

Sincerely

DAVID C. VAN GASBECK Chief. Environmental Division



OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE 6000 DEFENSE PENTAGON WASHINGTON, D.C. 20301-6000



COMMAND CONTROL COMMUNICATION AND INTELLIGENCE

U-791/SV-CIPS

2.2 FEB 1633

The Public Printer U.S. Government Printing Office North Capitol & H Street N.W. Washington, DC 20401

Sir:

The Combined Intelligence Publishing Service (CIPS) wishes to convey its appreciation to Mr. William Retlly of GPO's Training Office, Graphic Systems Development Division. His presentation on "The Government Printing Office and the Standard Generalized Markup Language (SGML) Experience" at the Department of Defense (DoD) & Intelligence Community SGML Conference & Tschnology Exposition held 12 December 1995 at the Defense Intelligence Analysis Center, Bolling APB, Washington, DC was well received.

Mr. Reilly provided an animated, interesting and informative discussion on SGML. He welcomed questions and addressed SGML/HyperText Markup Language (HTML) training offered at GPO. Many of the attendees expressed interest in GPO's training based on his helpful attitude.

GPO should be very proud to have an individual of Mr. Reilly's caliber. He exemplifies GPO's commitment to quality, innovation and customer service.

Please convey our thanks to Mr. Reilly for an outstanding presentation which benefitted the DoD and Intelligence Community attendees immeasurably.

Sincerely,

LINDA S. GILLETTE
Director, Combined Intelligence

Publishing Service





United States Department of State

Washington, D.C. 20520

February 29, 1996

The Honorable Michael F. DiMario, Public Printer Government Printing Office Washington, D.C.

Dear Mr. DiMario:

With the conclusion of Book III of the <u>Cumulative</u> <u>Digest of United States Practice in International Law, 1981-1988</u>, I feel it incumbent upon me as Editor of all three Books to take official note of the fine professional skills and organizational leadership furnished by Lawrence B. Grantham, Senior Application Specialist, Graphic Systems Development Division of the Government Printing Office, in producing final camera-ready copy for the entire work.

His service to the Office of the Legal Adviser, Department of State involved in the first instance adapting codes to reproduce the Department's traditional format for similar earlier works, using the new technology of Microcomp software developed by the Government Printing Office, and, secondly, training in the proper use of the new technology the Department employee detailed from Publishing Services to the Office of the Legal Adviser for in-house production of the work.

Subsequently, the Office of the Legal Adviser was constrained for budgetary reasons to eliminate assignments to the project other than the Editor and to rely instead entirely on Government Printing Office personnel, that is, Mr. Grantham and the staff under his supervision. In addition to converting the "typed" manuscript into printed pages with a variety of type fonts, Mr. Grantham and his staff were required to produce, also from "typed" manuscript, a double-column-per-page index, and to prepare without any "typed" manuscript or diskette three separate tables of cases (sorting decisions of U.S. courts, the International Court of Justice, and the Permanent Court of International Justice).

The Honorable Michael F. DiMario, Public Printer

February 29, 1996

All of these responsibilities called for meticulous attention to detail, not only in the coding and inputting, but especially in the technical editing and proofing, that Mr. Grantham and his assistant, William A. Carpenter, performed in an outstanding fashion. Because of the 100% reliability of their work, no Department of State employee other than the Editor, nor any outside contractor, was required to edit or proof Books II and III. The reliability of Mr. Grantham and his staff provided a significant saving in costs for the Office of the Legal Adviser.

I ask that this letter be made part of Mr. Grantham's official personnel folder with the Government Printing Office.

Sincerely,

Marian Nash (Leich)

Editor, <u>Cumulative Digest of United States</u>
<u>Practice in International Law, 1981-1988</u>
Office of the Legal Adviser

marian mal (aich)

APPENDIX D5

Public Access Working Group

1742 Connecticut Avenue N.W. Washington, D.C. 20009

July 23, 1996

United States Senate Washington, DC 20510

Dear Senator:

We are writing to express our concerns about the Government Printing Office's (GPO) plan to transform the Federal Depository Library Program (FDLP) from a primarily print-based to an electronic environment. The undersigned organizations are sending you our comments as members of the Public Access Working Group.

The Public Access Working Group seeks to promote public access to and use of government information. Therefore, we applied the GPO's efforts to "promote and ensure the public's right to timely, equitable, and cost effective access to government information," and strongly support the five principles underlying the draft report.

The implementation of these principles through the Federal Depository Library Program, however, will be challenging. While we support a move to a more electronic library environment, the six areas outlined below contain issues of concern for our working group, and more importantly, for the success of the transition plan in the real world

Needs of Users

While much study has been undertaken to figure out what the federal government needs to carry out this program, the needs of the libraries and the users must also be considered. At minimum, an evaluation of how current federal government online services, such as GPO Access, individual agency World Wide Web and gopher sites and agency GILS, and the Library of Congress' THOMAS, meet user needs should be undertaken. Such a study should be undertaken by the Office of Management and Budget under its Paperwork Reduction Act responsibilities for executive branch information policy. In addition, a study that focuses on how libraries can best meet user needs is justified. How can the federal government ensure access to its information without knowing how citizens request, find and use this information?

Unfortunately, because Congress refused to fund user studies, the GPO must develop a plan to benefit the public, without directly involving them in determining how this could best be done. Budgetary constraints the GPO faced throughout the planning process led to incomplete information on how libraries can best implement this plan and how users can best be provided access. This lack of support for basic research cannot continue if the transition plan is to be a success.

While information may be more available (providing the technology is available) when it is disseminated electronically, it is not necessarily more accessible nor usable by the general public. Therefore, it is important to remember that this transition, although necessary and beneficial, may not be applauded by the general public until they have the skills to partake in the access. This plan involves a transition in both technology and people. The needs of both must be taken into consideration when funding the GPO and our nation's libraries. Some component of public training and assistance must be built into any transition plan.

Another important component that must not be overlooked in the development and implementation of this transition plan is the need to inform citizens that this electronic access to information exists. What information will be available electronically though the FDLP must be publicized, as must the ways of accessing it.

Access to Information

Whenever possible, users should be provided access to federal government information through networks and dial-up systems outside of the physical Depository Library environment. This significantly increases the number of users able to access information, as well as prevents significant travel time for users who live a great distance from a Federal Depository

Library. This, too, requires additional funding for libraries. Without widespread and diverse access to this electronic information, there is no reason to move from paper to digital.

Redundancy and diversity of information format should be maintained during the transition to an electronic environment and beyond. This is a practical move. It ensures that federal government information will not be eliminated due to computer failures, natural disasters or government shut downs; what may be lost in one place or format will be retrievable in another.

Many questions of sustainability and accessibility are left unanswered by the current transition plan. Currently, no federal agency had taken responsibility for the very important tasks of storing electronic information. No data analysis or cost comparisons are outlined in the draft plan for the preservation of information. Who will be required to maintain this archival information and update it to current standards? While today, a citizen can go into a Federal Depository Library and read information printed years ago, how will the public access archival information in an electronic environment? How long will information be made available?

Easy search and retrieval of government information has been a hallmark of the Federal Depository Library Program. This access must continue in the future. To best meet the needs of users, a centralized online searching system is needed. This will help ensure the "official" status of documents. With a centralized system, librarians and users would be ensured the documents they access are "official." This approach would also circumvent the current problem of corrupted information agencies run into when they post independently. While the Government Information Locator Service (GILS) was envisioned to fulfill this kind of government-wide searching, it is no where near ready to accomplish this task, and is not likely to be so in the foreseeable future.

Agency Participation

Federal government agencies will play an increasingly large role in the dissemination of information to the public when the depository libraries move from a paper to an electronic environment. As agencies move from authors of print information to authors, publishers and distributors of electronic information, they will gain enormous responsibility. To ensure Federal Depository Libraries receive as much information electronically as they have historically in print, agencies must be given incentives to cooperate with the program. For the process to work in the future, there must be a clearly articulated means of oversight and compliance. The goal is to increase public access to information by using electronic technologies, not decrease the amount of information available by relying on agencies whose best interests and limited budgets may preclude cooperation.

Funding

Although the concept of a cost-effective transition plan is both necessary and laudable, cost must not be the sole consideration behind implementation decisions. A well thought out and well executed plan is necessary for the transition to be a success. Adequate funding for the libraries to implement this new electronic plan must be provided up-front. While we applaud the idea of technology grants to libraries to help with start-up costs, an ongoing program of technology grants should be made available for upgrading hardware and software at the depository libraries. In addition, a parallel program of training grants should be developed to build capacity among FDLP employees. Funds for hardware, software and training are essential to the success of this transition. Very few citizens will have access to government information if these basic needs of the library community are not addressed.

We request that you support the funding necessary to carry out the transition plan in a comprehensive manner. Fewer citizens may have access to information than currently do, if libraries are asked to move to electronic formats without the funding to support the transition. If careful planning and appropriate funding are not built into this transition, we may create for many Americans a situation of taxation without information.

User Fees

The National Technical Information Service (NTIS) plan for providing greater access to its holding via the Federal Depository Libraries is a step in the right direction. It does, however, bring to the forefront a serious concern about equitable access. In the future, agencies may be faced with two conflicting mandates: 1) to provide access to information holdings free to Federal Depository Libraries and 2) to recover costs from the distribution of this information. The issue of cost recovery v. public access should be revisited in the upcoming months as agencies more fully develop plans to disseminate their information holdings electronically.

Because the FDLP is the public's main resource for federal government information, we believe its access should remain free to the public. Taxpayers have already paid to create the information, it should not have to pay to access it, too.

In the draft plan, the Government Printing Office takes the responsibility for paying the user fees for federal information that is not provided free to the public. While this idea solves some of the problems with fees, it creates three more. First, because the GPO is funded each year through the federal budget process, there is no guarantee that this transition will be funded, and subsequently, that these user fees could be paid each year. Second, while GPO may pay for the cost of providing access to the fee services for the depository libraries, the public would not be allowed to duplicate or retransmit this information. This leads to a third, very significant, problem—such an agreement essentially creates an agency copyright in non-copyrightable information and puts the GPO in the untenable position of enforcing restricted use of public information.

Time Frame

The more realistic five-to-seven year time frame outlined in the current draft plan is not only preferred, but essential, to adequately develop and carry out the transition plan. The two-year time frame set forth by the original plan was unrealistic. The tasks required to move from print to electronic government information will be both costly and time consuming. The plan requires not only more equipment, but also more skills for the librarians. This in turn, requires training, and training takes time. Moreover, electronic access will fundamentally change the way depository librarians interact with users and may greatly enlarge their community. The transition will take place for personnel as well as for the information.

We ask you and the members of your committee to support the transition plan with the changes recommended.

Thank you, again, for the opportunity to share our concerns regarding the Federal Depository Library Program's transition to a more electronic environment.

Sincerely,

Austin Free-Net
Berinstein Research
Catalyst Project
Information Trust
National Coordinating Committee for the Promotion of History
OMB Watch
People For the American Way
Public Citizen

American Association of Legal Publishers

Public Access Working Group

1742 Connecticut Avenue N.W. Washington, D.C. 20009 202-234-8494

ABOUT THE PUBLIC ACCESS WORKING GROUP

BACKGROUND

OMB Watch, with the assistance of the Blue Mountain Center and the National Security Archive, convened a weekend colloquium in June, 1993 at the Blue Mountain Center in New York on Public Access To and Use Of Government Information. The two-day colloquium provided key players an opportunity to discuss ideas and strategies for promoting greater access to information within the federal government. The purposes of the colloquium were to:

- Foster greater dialogue among those who work on federal public access issues;
- Develop benchmarks by which to judge government's public access efforts; and
- Strategize on efforts to build greater foundation and public support for access to government information initiatives.

The weekend colloquium dealt with issues pertaining to access to and use, of government information, which also included discussions about the new information superhighways and telecommunications policy. Participants at the colloquium ended up in one of three working groups -- access to non-national security information, access to national security information, and public access to the information infrastructure -- and developed first principles and strategic plans for advancing public access. A self-selecting steering committee was formed during the weekend.

The Steering Committee has been meeting periodically to map out a strategy for dealing with public access issues. It has also engaged the Clinton Administration in a variety of substantive matters. We have: organized meetings with leadership of the Information Infrastructure Task Force to express public interest concerns; provided input on the content of the Administration's September 15, 1993 report on the "National Information Infrastructure: Agenda for Action"; and submitted a letter to the President, signed by roughly 50 national organizations expressing our desire to work collaboratively on information and telecommunications policy issues. We have been actively engaged in discussions with OMB on the Administration's policy stances in relation to the GPO, and on OMB's initiatives with the GILS (Government Information Locator Service).

WHAT DOES THE PUBLIC ACCESS WORKING GROUP DO?

The primary goal of the Public Access Working Group is to promote public access to and use of federal information. The Working Group exists to:

- Provide a forum to react to proposed policy initiatives;
- Build consensus on public access policy initiatives where possible;

- Begin a dialogue on a proactive public access agenda; and
- Develop and execute a plan for building greater public awareness on the need for greater government openness and for opportunities to get involved.

The Working Group is not intended to supplant existing forums or coalitions, such as the Freedom of Information Litigation Group, Coalition on Government Information, or the Working Group on Information and Regulatory Policy. Rather, the intent is to build some linkage between and among the work many of us in the public interest community have already started. By linking the secrecy and public access problems faced by groups working on national security and domestic issues, for example, there is greater opportunity that the new alliances will result in uniform, improved practices in the government. The Working Group has already demonstrated that greater good can come from a loose-knit alliance--and in a manner that does not "steal' issues from individual organizations.

The scope of issues that the Working Group covers is very broad, but defined by the common theme of public access. Because the development of the new information superhighway, called the National Information Infrastructure, can affect public access, we are concerned about its development. However, we have many other concerns about public access, such as insuring an adequate national security classification system, protecting the whistleblower safety net, and development of policy and practices that empower the public to obtain information from federal agencies. Recognizing the importance of the NI!-- and that there are a host of other important issues associated with it (e.g. cross-ownership; common carriage; and more) -- many of the organizations involved in the Public Access Working Group are also part of another coalition, the Telecommunications Policy Roundtable. The Roundtable has telecommunications policy as a primary focus, whereas we have information policy as our primary concern.

The Working Group itself does not expect to take positions on issues. Many national and state organizations cannot "join" on-going coalitions that take specific positions. For these types of coalitions, they are forced to get every coalition statement approved by their own boards or governing bodies -- which, practically speaking, makes it virtually impossible for them to join such groups. To insure broad based participation, Working Group is designed to be an ad hoc group of organizations.

Decisions on program and policy direction will be determined by the Steering Committee, which will continue to have an open membership. The Steering Committee has asked OMB Watch to serve as secretariat to the Working Group.

We welcome you and look forward to your active participation. OMB Watch maintains an open listserv for the Public Access Working Group; to subscribe, send e-mail to stistproc@rtk.net with the message "subscribe gov-info-access YourFirstName YourLastName" (e.g., subscribe gov-info-access Patrice McDermott).

Patrice McDermott Chair, Public Access Working Group

APPENDIX D6

United States Pistrict Court for the Pistrict of Columbia Washington, D C 20001

Chumbers of Royce C. Lamberth United States District Indge OCT 3 1996

Honorable John Warner Chairman Committee on Rules and Administration United States Senate Washington, D.C. 20510

Honorable Wendell H. Ford Ranking Member Committee on Rules and Administration United States Senate Washington, D.C. 20510

Dear Mr. Chairman and Senator Ford:

I am pleased to offer the following responses to the questions you sent on August 9, 1996, following the hearing held July 24, 1996, on the topic of Public Access to Government Information in the 21st Century.

Question 1:

How would you recommend addressing security issues in the context of a program (FDLP) specifically designed for general public access?

Response:

I have reviewed Justice Carrico's comments and share his concerns regarding public access and security. As I discussed in my testimony, the federal judiciary has significantly increased courthouse security in recent years. This has been made possible through congressionally approved increases specifically for security improvements. We must continue to ensure the security and safety of judges, court staff, litigants, and the public who enter our courthouses.

During the recent Government Printing Office (GPO) Study of the Federal Depository Library Program, the judiciary was alerted to 44 U.S.C. §1915 and the public access exemption it provides to the library for the highest court of appeals in each state. Based on our security concerns, the judiciary attempted to have the federal courts included under exemption language in Section 1915. This request was not included in the final report's recommendations, which curiously proposed removing the exemption for the state courts. The judiciary supports such an

2

exemption for its libraries and believes it is justified.

The judiciary continues to be concerned with providing a secure environment for research in the courthouses. Given recent efforts to substantially improve security in the federal courthouses, the FDLP requirement that the judiciary's libraries be open to the public runs contrary to those efforts.

The judiciary's libraries currently serve a limited public clientele outside the court community. The primary library patrons are: the judges and court staff; U.S. Attorneys and lawyers from other federal agencies; other federal judiciary organizations such as the Federal Public Defenders, Probation, and Pretrial Services Offices; and private bar practitioners and prose litigants with cases before the court. For these patrons, the judiciary's libraries are the primary source of FDLP documents.

The nature of the work in the federal judiciary enables its libraries to be selective depositories. Thus, the libraries receive only 5-7% of the total material available and therefore serve a narrowly defined segment of the general public. In fact, the demand for the FDLP materials in our libraries is attributable to the primary patrons, who would continue to have access to these materials if the library were closed to the general public. The general public customers will continue to be served by other selective FDLP libraries, such as law school or local government law libraries, or by institutions with larger government document collections. All the judiciary libraries are located in large metropolitan areas with numerous alternate sources for the FDLP documents.

Ouestion 2:

Would the Judicial Conference recommend to this Committee how Title 44 can be applied or amended to better assure reasonable and equitable no-fee general public access to all federal court public documents, including district, bankruptcy, and specialty courts?

Response:

As I stated in my testimony, the Judicial Conference's position with regard to public access to court information is referenced in the <u>Long Range Plan for the Judiciary</u> and the <u>Long Range Plan for Automation</u>. Therefore, the comments I offer are my own. I am not able to offer recommendations on behalf of the Judicial Conference.

The Internet is increasingly accessible to a wider variety of users and is increasingly the primary mode of electronic information exchange and dissemination (see attached article, pulled from the Internet). While only 60% of the FDLP libraries currently have access to the Internet, the FDLP's new minimum technical hardware requirements, effective 10/1/96, specify a public access terminal with Internet access. Thus, access through FDLP libraries is expected to improve in the very near future.

The judiciary recognizes the importance of providing access to appellate, district, and bankruptcy opinions. As I mentioned in my testimony, appellate opinions establish legal

3

precedent and are already being provided. Part of the challenge for the federal judiciary is the fact that it is organized in a way that requires each court to operate decentralized information and records management systems. While this enables each court to be responsive to its local needs while contributing to national goals, it makes it more difficult for the public to access electronic district and bankruptcy opinions easily and efficiently. Current efforts to pilot several electronic records applications will include improvements in accessing all judges' opinions. Any such efforts will require the resolution of numerous issues including those regarding the classification of opinions, memoranda, bench orders, and other dispositive documents, particularly in district and bankruptcy court proceedings. The results of these pilots and other studies currently underway will be studied by the judiciary, and improvements will be implemented where feasible.

Ouestion 3:

Is the 5-7 year transition period reasonable for the depository law libraries that serve the judiciary? What specific documents would you recommend continue to be available in print format during this transition? Specifically, what about the Congressional Record and Serial Set?

Response:

With the recent pace of technology, it is difficult to predict the progress of the expansion of technology in the government and the general public; however, the judiciary supported the 5 to 7 year transition described in the GPO study and finds it reasonable.

I have conferred with the judiciary's librarians, and they agree that the list of documents listed on page E-17 of the Study to Identify Measures Necessary For a Successful Transition to a More Electronic Federal Depository Library Program are routinely used documents in the judiciary libraries. In particular, the librarians cited the Congressional Record and Serial Set as popular documents and stated that it is critical for these titles to remain in paper throughout any transition and noted that perhaps they should always be available on paper as well as in an electronic format. If these titles were disseminated electronically only, without a transition period, it would be difficult to provide the necessary access to the materials with our current limited electronic resources. A longer transition period will allow hardware access to be improved and allow for time to educate the users of the material on how to access efficiently data in electronic format.

I trust you will find the information responsive to your requests, and I am available should you require any clarification or additional information. I again thank you for the opportunity to testify and to present this additional information.

Sincerely,

Royce C. Lamberth
United States District Judge

Attachment

Web Progresses as Source of Primary Legal Material By Deborah M. Keene and William Morse Special to the National Law Journal, July 22, 1996

One of the most dramatic changes today in legal publishing is seen on the Internet. For the first time, law schools, governments, attorneys, and even commercial publishers are freely distributing large amounts of public domain legal material directly to the American public as well as the entire world.

Put into historical perspective, these changes seem even more dramatic. For more than 100 years, West Publishing Co. dominated the publication of primary legal materials. West's case reporters and digest system became the standard tools for doing legal research.

In the early 1970's, the LEXIS online service changed the face of legal publishing. LEXIS offered full-text cases on a much more current basis than West's printed materials and allowed keyword searches of cases that made the digest system seem unnecessary. In response, West created WESTLAW which eventually offered both full-text cases and West's traditional editorial enhancements. Together, West and LEXIS were at the forefront of legal publishing for the next 20 years.<

In the 1990's, a new and even more powerful medium for the publication of information began to develop. The World Wide Web provided a uniform and simple method for scientists to store and exchange documents over the Internet by using a protocol called "hypertext." Hypertext allows documents located on different computers, regardless of location--to be linked so that the user can jump from one computer to the next with the click of a mouse button.

In the beginning, Web documents were text only. However, the release of Mosaic in 1993 by the National Center for Supercomputing enabled the Web to display special characters, graphics, sounds, and other multimedia. The Web quickly became the preferred means for distributing information over the Internet.

Cornell Law School's Legal Information Institute was one of the early pioneers in the publication of primary legal materials over the Web. Founded in 1992, the LII was the first to put the full-text of U.S. Supreme Court cases on the Web beginning with the 1990 term.

The LII also publishes the opinions of the New York Court of Appeals from 1992 to date. Both the Supreme Court and the N.Y. Court of Appeals cases are indexed by topic and searchable by keyword. The LII also publishes the U.S. Code, which is current through January 1994, and uses "forms" for updating the code provisions through the current legislative session via Thomas, the Library of Congress' Web site.

Cornell,however, is not alone in publishing primary legal material on the Web. Other law schools and law libraries are also actively involved in publishing current legal information.

For example, a group of law schools and law libraries publishes the current opinions from all 13 of the U.S. Circuit Courts of Appeals. The University of Mississippi School of Law Library publishes the opinions of the U.S. District Court for the Northern District of Mississippi. Both the University of Florida College of Law and the University of South Carolina Law Library publish the opinions of their respective states' Supreme Courts. The Indiana University School of Law in Bloomington goes even further by publishing not only the current court opinions of both the Indiana Supreme Court and Court of Appeals but also the full text of the Indiana Code.

Law schools were among the first organizations to publish on the Web, but the largest provider of free substantive legal material is the federal government. The Congress was the first branch to realize the full potential of the Web with the creation of Thomas, which appeared in early 1995. Thomas publishes current House and Senate bills and the daily Congressional Record which can be searched by keyword and browsed by date and part. The Government Printing Office's GPO Access has one of the largest government sites and publishes such standard legal resources as the Congressional Record and Index, the House and Senate Calendars and bills, the Federal Register, and the U.S. Code. Indeed, almost every government agency now has a Web site.

There is a wide variety of primary law from the states being published on the Internet. About one-half of all of the states have current appellate court decisions available on the Web. Most of these opinions, as with other state legal materials, are published by a state agency or the court itself. However, some are being published by state bar associations, law schools, or law firms. For instance, Michigan's Institute of Continuing Legal Education is offering current opinions from the Michigan Supreme Court, and the Wisconsin State Bar publishes current opinions of their Supreme Court and Court of Appeals. Around one third of state codes are available over the Web, and about a half-dozen states have made their administrative codes or regulations available on the Internet.P>

Law firms are also putting up Web sites with primary legal materials. For example, Boston's Craig and Macauley is publishing the opinions of the U.S. Bankruptcy Court, District of Massachusetts from 1995 to date.

Some private publishers are also freely distributing public domain material over the Internet. Law Journal Extra, which is affiliated with the National Law Journal, publishes current opinions from all of the federal circuit courts. A smaller and relatively unknown company, Timeline

Publishing, offers a Web site called Lawyer's Legal Research which has one of the most extensive collections of full-text federal and state court opinions available on the Internet. While this database may be free today, the LLR states that it plans to charge a "modest fee" at some time in the future.

Even private citizens are beginning to publish substantive legal materials. Ken Lombardi, who works for a company that provides Internet services in Washington state, has published the full-text of all the state constitutions on his Web site.

With all of these different organizations putting up substantive legal information on the Web, the obvious question is: how do they do it? Emory Law Library's Courts Publishing Project provides an example. In the winter of 1995, Emory began looking for a pilot publishing project that would add substance to its newly-created Web site. The hope was that this project would demonstrate the power and utility of using the Web to do legal research.

Emory Law Library asked the 11th U.S. Circuit Court of Appeals for permission to publish their current court opinions, and the Court agreed. Emory started publishing the full text of the Court's opinions beginning with the November 1994 cases. Over a one year period, Emory added the 1st, 4th, 6th, 7th, 10th, and Federal Circuit Courts of Appeals to its database. Since the beginning of the Courts Publishing Project, there have been more than one million accesses to these cases from around the world.

The circuit courts generally use one of two methods to make their cases available to Emory and the other law schools and vendors that publish federal court opinions. The first requires that the court establish an Internet account and use a process called file transfer protocol, or "FTP," that enables the cases to be downloaded directly from the Internet by the publisher. The second utilizes the federal court's own electronic bulletin board system, Public Access to Court Electronic Records or Pacer, which allows users to download cases using a modern and standard telecommunications software.>

The 11th Circuit chose the first method and set-up an account with a commercial Internet service provider. On a daily basis, Emory connects to the 11th Circuit's Web site and uses special software developed at the law library that automatically downloads the cases. This software is freely distributed by Emory to any non-profit, government, or educational institution that wishes to use it.

When the cases are downloaded, they are converted into a Web-description language called HTML and uploaded to the law school's publicly-accessible Web site. Next, the cases are indexed by month and party names. Finally, they are indexed using a public-domain software program called WAIS which provides a

keyword search capability. For courts that do not have Internet access, Emory connects to the PACER electronic bulletin board via a dial-in modern and downloads the cases.

The costs of publishing on the Internet can vary widely. Surprisingly, it is not the cost of producing Internet-ready HTML that is the problem. Most word processors now support easy conversion to HTML, and there is also public domain software which make producing professional looking web pages simple. Instead, most of the costs of running a significant Web site come from the employees needed to run the computers on which the Web site exists.

In order to keep costs down, a Web publisher can contract with an Internet service provider or "ISP" to run their Web computer, also called a "server." However, if any interactive features, such as a search engine, are going to be used, it is preferable for the publisher to directly operate the server. Servers can range in cost from the price of a high-end Pentium, \$3500 to \$5000, to a more expensive mid-range system, 12,000 to \$25,000.

Most Web servers run under an operating system called "UNIX." There is a popular free UNIX program called LINUX that is used by a number of smaller Web sites. Finally, the server will need a permanent connection to the Internet, which can cost from \$100 to \$1,500 per month, depending on what type of service is selected.

With all of the free public information being made available over the Internet, it would seem that the legal researcher could start relying more on the Web and less on the traditional print and electronic publishers.

It is not yet that simple, however. There are a number of issues that need to be addressed concerning the usability of legal information on the Internet.

First, there is the issue of citing to legal cases and other materials on the Web. The federal courts have traditionally required that legal briefs cite to West's printed reporters when available, but West claims a copyright on their internal page numbering system. p>

Pursuant to an agreement with the U.S. Department of Justice--filed in federal court June 19--permitting West to proceed with a \$3.4 billion mcrger with Thomson Corp., West will make its numbering system available at one fee to all. This means that Emory and the other law schools that publish court opinions can take the West page numbers and add them to their court databases only by paying the agreed-upon fee.>

The American Bar Association has come up with a solution to this problem. In a proposal that will be brought up for a vote at the August 1996 annual meeting,

the ABA recommends that all courts adopt a new "format neutral" citation system that uses paragraph numbers rather than the traditional page numbering system.

One remedy to this problem could be the use of optical scanners to convert print materials into a format that computers can read. Unfortunately, scanning technology is not yet sufficiently reliable. The need to carefully proof-read all scanned text makes the work too costly for most Internet publishers.

Another difficulty with using the Web for legal research is the lack of uniformity among Web sites. For example, the arrangement and appearance of federal circuit court cases is not handled uniformly among the different law school publishers. The indexing, display, and downloading formats differ from site to site. Further, the sites tend to use completely different search engines to retrieve cases. In answer to the problem of inconsistent search engines, both Cornell's and Washburn Law have mounted comprehensive search engines that provide for searching all of the circuit cases across the different law school sites. >

Yet another difficulty with the Web is finding the most reliable site for legal information. As mentioned earlier, the U.S. Code is available at Cornell's LII and at two other different government Web sites. At the direction of the U.S. Congress, GPO is attempting to centralize and standardize the publications of government agencies over the Internet. This may resolve the confusion caused by the proliferation of duplicate government materials on the Web. Beyond official government publications on the Internet, it is often difficult to determine which of the other sites are truly reliable. The best rule of thumb is to stick carefully to the law schools and other names that evoke trust.

Yet another concern with legal publishing on the Web is the issue of the long term viability of the material which is currently there. Many users fear the possibility of, for example, the Cornell Web site with its Supreme Court decisions suddenly vanishing from the Web.

This concern is probably the most unwarranted. Most of the major legal Web publishers are committed to their projects for the long-term. Further,

technology is making it easier and cheaper to store large amounts of Web material. Indeed, the current legal Web sites are likely to expand greatly as time passes rather than contract or disappear.

The world of Internet publishing is opening up huge avenues for the legal researcher. Cases, statutes, regulations, and other legal documents that used to be available only through printed sources or expensive online vendors can now be accessed in the office or at home for the cost of an Internet account. Currently, many of the Web sites that are publishing these materials are in flux. Over the next year, many new sites will appear with even more information. .

It is certain that the federal government is committed to making most government information freely available over the Internet by the end of the decade. In addition, many states can be expected to follow this path as well. As issues concerning citation, reliability, and consistency are resolved, the Web may very well become the tool of first-choice for doing legal research in the twenty-first century.



ADMINISTRATOR
OFFICE OF
INFORMATION AND
REGULATORY AFFAIRS

EXECUTIVE OFFICE OF THE PRESIDENT OFFICE OF MANAGEMENT AND BUDGET WASHINGTON, D.C. 20503

September 13, 1996

The Honorable John Warner Chairman United States Senate Committee on Rules and Administration Washington, D.C. 20510-6325

Dear Senator Warner:

Thank you for your letter of August 9, 1996, asking a number of questions to complete the hearing record on issues concerning Title 44.

I am pleased to provide my answers to your questions in the attachment. We look forward to working with the Committee and all interested parties on a comprehensive review of Title 44.

Sincerely,

Sally Katzen

Attachment

Identical Letter Sent to Honorable Wendell Ford, Ranking Member, Senate Committee on Rules and Administration

Office of Management and Budget Response to Senate Committee on Rules and Administration Follow-up Questions Regarding Title 44

1. This Committee is prepared to work with the Administration and others in drafting language for Title 44. Since the May 31, 1996, Justice memorandum comes close to advising agencies not to follow existing law (which is still in effect until overturned by a court of law), is OMB prepared to reissue Mr. Panetta's April 11, 1996 memorandum to the executive agencies, so that confusion is minimized?

We are preparing a memorandum for the heads of departments and agencies to minimize any confusion about this Administration's policy in light of the Justice memorandum.

2. You note in your testimony that if decentralized procurement were permitted, it would be Executive branch policy that each agency coordinate with the Superintendent of Documents to make copies of government documents available for the Depository Library Program. The law already requires this type of cooperation, and yet "fugitive documents" are a problem -- even with centralized procurement.

How would the Administration ensure the availability of government documents within the Depository Libraries under a decentralized procurement policy? If it is a problem now, won't it be just more difficult with decentralized procurement?

The "fugitive" document problem is a complex one and our goal is to devise a system that will improve printing procurement and information dissemination without exacerbating the "fugitive" document problem. As I stated in my written testimony, the core functions of the Federal Depository Library Program must be retained and adequate copies of government documents must be made available for distribution to the libraries. But, just as the current system is not foolproof, we cannot expect the new system to be flawless either. We believe that we can address the fugitive document problem within the context of a new printing procurement system where agencies understand that along with their new authority comes the responsibility to use the FDLP. To accomplish our goal, we will add a clause to the Federal Acquisition Regulations requiring sufficient copies for the Depository Libraries for all qualifying government printing procurements; work with the Superintendent of Documents to enhance the FDLP's marketing and outreach to the agencies; and rely on the agency Chief Information Officers to oversee their programs.

3. Information technology is changing rapidly, with new advancements on almost a daily basis. You have noted that the need for paper is eliminated in many instances. Yet, our everquickening transition into the electronic information age can result in a caste system of "have" and "have nots" because many citizens are not computer literate nor able to afford the cost of a computer, or even the cost of printing a document from the computer.

In your opinion, should printed copies of documents be made available to the American public, at least through the Depository Libraries, even when such documents are available electronically? Should the government bear the costs of making these print copies available?

We have long shared your concerns regarding the "have" and "have not" issue, and that is why our recent revision of OMB Circular A-130 embraces the Paperwork Reduction Act's requirements for a diversity of public and private sources of government information and the timely and equitable access to data and underlying information that is disseminated in electronic format. Where the information dissemination products appear in print and electronic form, print copies should be provided to the Depository Libraries at government expense. However, for data produced only in electronic form, timely and equitable access may not in every instance include print copies so long as the ultimate performance standard of public access is met.

4. Were total costs of decentralized procurement versus centralized procurement, and dissemination to the depository libraries some of the factors considered in the NPR, and if so, what were the analyses that refuted these concerns?

In compiling its findings regarding government printing reform, NPR did not generate its own data; rather it relied on GAO's 1990 report, "Government Printing Office: Monopoly-like Status Contributes to Inefficiency and Ineffectiveness" and data supplied by GPO and the agencies. NPR found that on jobs above a threshold of \$2,500, agencies often preferred GPO's service and found it to be generally at a lower cost than the agency could get in the commercial market. However, below the \$2,500 threshold, where most jobs are of a quick turnaround-type, the agencies not only found the costs somewhat higher, but delivery was untimely and it was difficult to work directly with the printing contractor. These findings are consistent with GAO's findings. Incidently, this second category of printing was also found by NPR to be the type of product with limited public interest.

5. In your testimony, you cite GPO's addition of 6-9% overhead in procuring executive printing. Yet the private printing industries tell us that GPO's centralized procurement is far more cost-effective than a decentralized system would be -- even including that 6-9%. Does OMB believe GPO's centralized procurement is more or less cost-effective than agencies contracting out in a decentralized manner?

In light of GAO's 1990 report, "Government Printing Office: Monopoly-like Status Contributes to Inefficiency and Ineffectiveness," the NPR findings, and recommendations to us from the Executive branch agencies, we think it is time to see if a more decentralized approach would be more effective and efficient. As I said in my written testimony, in our model, to the extent that GPO is cost-effective and responsive to its customers needs, it will garner agency business.

6. Your testimony suggests that the new procurement system you recommend would be "fair, transparent and fully competitive." We have heard testimony that GPO's procurement system is just that. How would you characterize GPO's procurement system.

Our goal is to create a new system that replicates the best characteristics of GPO's current system while capitalizing on lessons learned from procurement reform efforts in other areas. As noted above and in my written testimony, in our model, GPO will continue to capitalize on its strengths, will compete for agency business and, to the extent that it is cost-effective and responsive to its customers needs, it will get agency business.

7. Earlier witnesses have expressed concern over continuing in-house printing of public documents by executive agencies. This results in government competition with the private sector, and in "fugitive" documents. We have heard suggestions for agencies to submit communications plans to the Congress -- publication anticipated, and justification for in-house printing and duplicating machinery -- so that both OMB and Congress can better insure general public access to government information.

In your written statement you indicate OMB will specifically request in-house printing capability information from all agencies. As part of that effort, will you also request information on public information products anticipated, and thus get a better handle on "fugitive" documents for the depository libraries?

Our study will be quantitative in nature and conducted at the macro-level based upon agency historical experiences, rather than seeking estimates or projections for specific future products. In my written testimouy, I outlined some basic elements of a comprehensive study that would be the first step in reform of the present system. A goal of that system will be to ensure the public's ready access to government information including through the FDLP. To accomplish that goal, we will add a clause to the Federal Acquisition Regulations requiring sufficient copies for the Depository Libraries for all qualifying government printing procurements; work with the Superintendent of Documents to enhance the FDLP's marketing and outreach to the agencies; and rely on the agency Chief Information Officers to oversee their programs.

8. The Paperwork Reduction Act as well as OMB Circular A-130 prohibits agencies from establishing "exclusive, restricted, or other distribution arrangements that interfere with the availability of information dissemination products on a timely and equitable basis."

When agencies decide not to publish U.S. government information collected and/or produced with tax dollars -- even in "plain vanilla" format -- and only make it available for purchase through the private sector, the premise of "equitable public access" of Title 44 is seriously eroded. Additionally, charging the public to access a "fire hydrant" stream of data may not be "useable" access to that information

One partial solution is to insure that contracts for private publishing stipulate copies be provided at no fee for depository libraries. How would you suggest Title 44 address these challenges?

Comprehensive reform of Title 44 will require that we establish a number of performance standards in a variety of areas, including public dissemination of government information. We agree that for traditional printing, a clause in the Federal Acquisition Regulation requiring appropriate distribution to the Depository Libraries will go a long way towards ensuring broad public dissemination of those types of publications.

9. In the contracting out of database management, how has OMB considered the implications of foreign-owned companies control over U.S. government information? How do OMB guidelines for the contracting out of U.S. government information management address compliance with Title 44 (specifically providing no-fee access to government information through the FDLP)?

We are unaware of any situation where the foreign ownership, control or influence of a company has had any adverse impact with respect to the management of or access to U.S. government information. We would appreciate any information to the contrary that you might have.

10. Your statement on page 6 says: the [GPO study] "inappropriately clings to the past in emphasizing centralized control as a means to distribute electronic government information." It is the very decentralized production of information in the first place which led to the development of a centralized manager of dissemination through the FDLP. Electronic information is all the more complex in formats, languages, search engines, software and hardware. Why is one central point coordinating information on behalf of the regular citizen's access "inappropriate?"

How would decentralized dissemination assure common bibliographic reference points, preservation for future access through regional depository libraries or a future successor system, and the assurance to Congress that someone somewhere, is looking at the plethora of all three branches' information products to ensure equitable citizen access?

In my written testimony, I spoke of the history of Title 44 — dating back to when economies of scale dictated a large centralized printing plant to serve all of government and when government information existed solely in paper form, necessitating a centralized distribution system. It was is in that context that I characterized as "inappropriate" the FDLP study's proposal for centralized distribution of electronic information. I was not opposing one-stop public access to government information. To the contrary, we support one-stop public access. Indeed, that is why we are working hard to make the Government Information Locator Service transparent to the user and why we are exploring an advanced search facility for government information. Also, it is possible and desirable to

establish a framework for a decentralized system that sets standards and priorities for common reference points. And, as my written testimony indicates, we see an important role for the Depository Libraries in ensuring that government information is preserved for future public access.

11. There are many challenges in defining terms for Title 44. For example, "government information product" could include most of the information disseminated on agency and Committee Web pages, or it could be defined more narrowly. Each definition has significant cost implications for production, dissemination and storage of government information. Could you provide recommendations for defining the following terms:

"Government information product"

"Access" versus "individual ownership/use"

"Useable format"

"No-fee access" concept versus "recovering costs"

"Basic" versus "value-added" format/service

"Publish" versus "disseminate, produce or duplicate"

These terms and others were discussed during GPO's recent study of the Depository Library Program. No agreement was reached, in large part because the participants correctly concluded that one has to agree to concepts and principles before defining terms. The participants also recognized that the definitions would differ with the provisions to which they were directed.

12. Please describe the Administration's efforts in trying to identify uniform sets of standards for electronic publications -- from computer languages to search engines to indexing cataloging and locator organization so that the American citizen can routinely access information for which their taxes have already paid. Is the Administration collaborating with GPO, the Library sector, academia through the National Research Council, and industry, in developing sets of standards for publishing and disseminating public information electronically so that it can be found and retrieved, but also which does not lock out new technological advances?

On the broader question of our efforts to promote public access to government information, we recently rewrote OMB Circular A-130 to remind agencies that government information is a valuable national resource, its free flow to the public is essential to a democratic society, and the management of Federal information resources should protect the public's access to government information. To assist the public's access to government information, we have established the Government Information Locator Service (GILS), the "virtual card catalog" of government information holdings called for in the National Information Infrastructure: Agenda for Action. To date, all Cabinet departments and most small agencies have concluded their initial GILS implementation.

On the more specific issue of uniform standards, we hope that the NCLIS study can set a framework of principles and issues within which all interested parties -- GPO, Executive branch agencies, the Library sector, academia and industry -- can collaboratively work to identify specific areas where government standards may be necessary and what those standards may be.

13. In response to questions at the hearing, you clarified the position of the Administration with regard to the apparent discrepancy between Mr. Panetta's memorandum of April 11, 1996, and the Department of Justice memorandum to GSA of May 31, 1996. The Committee's understanding of the position of OMB is that, while it may be unconstitutional to require executive agencies to procure printing through GPO, the Clinton Administration is voluntarily complying with Title 44 requirements at this time, while OMB studies the cost-effectiveness of current printing requirements and make recommendations by April, 1997.

Is the Committee's understanding correct, and can we count on OMB to enforce this voluntary compliance with Title 44 among executive agencies during this period?

Yes, OMB's position is that while the Legislative branch cannot require the Executive branch to use GPO, the Executive branch can decide as a policy matter to use GPO. As noted in response to question number one, we plan to issue a memorandum clarifying our printing policy in light of the Justice memorandum until we can achieve a comprehensive reform of Title 44.

14. In this regard, the Committee is aware that the National Technical Information Service (NTIS) has acted as printing procurement agent for agencies within the Department of Commerce, in apparent violation of the April 11 directive. Through the efforts of Committee staff, NTIS has agreed to make available publications printed outside of GPO available to the Depository Library system, in the format most appropriate to library needs. However, the Committee is concerned that NTIS has indicated its intent to rely on the Department of Justice memorandum as authority to continue to bypass GPO.

In light of your statements at the hearing, what assurance can OMB give the Committee that NTIS, and other non-complying agencies, will be encouraged to comply with the April 11 directive?

In his written testimony and his oral statement at the July 24th hearing, NTIS Director Don Johnson described the issues involving his agency and further gave his commitment to provide the Depository Libraries cost-free access to information for which NTIS is the prime publisher. We believe that ultimately problems in this area can best be addressed in the comprehensive review of Title 44.

15. The Committee appreciates the position of OMB with regard to voluntary compliance with Title 44 and is encouraged that the Administration is willing to work with this Committee in developing legislation to update Title 44. The information developed by OMB during the study announced by the April 11 memorandum would be most helpful to the Committee in addressing both the constitutional issues associated with Title 44 and the need to update Title 44 to reflect new technologies.

Is OMB willing to share the results of its study with the Committee, prior to recommending action, in order to facilitate a joint effort to address these issues?

We look forward to sharing our results as an element of a comprehensive review of Title 44.



UNITED STATES DEPARTMENT OF COMMERCE National Technical Information Service 5285 Port Royal Road Springfield, Virginia 22161

OFFICE OF THE DIRECTOR

96 SEP 10 PM 3:00

September 6, 1996

Honorable John Warner Chairman, Committee on Rules and Administration United States Senate Washington, D.C. 20510-6325

Dear Mr. Chairman:

I very much appreciated the opportunity to appear before the Committee as part of its series of hearings on government information policy. I am enclosing responses to the follow-up questions that you and Senator Ford sent me. Please let me know if there is any additional information you need.

Please convey to Ms. Joy Wilson of your staff my appreciation for her courtesy and assistance.

Sincerely,

Donald R. Johnson

Director

cc: Wendell H. Ford

QUESTIONS FOR DR. JOHNSON FROM CHAIRMAN WARNER AND SENATOR FORD

1. You kindly provided this Committee staff a copy of a Department of Commerce memorandum which stipulates that NTIS is exempted from Title 44's printing/procurement requirements. Does NTIS have any similar memorandum exempting NTIS from dissemination requirements for no-fee public access through title 44's Federal Depository Library Program?

Response: The General Counsel has opined that if material is not required to be published by law and is published at private sector expense, such as the International Trade Administration's *Industrial Outlook*, it is not subject to Federal Depository Library (FDL) requirements. However, the purpose of seeking private sector partners is to permit agencies to make available material that they might not otherwise be able to underwrite, not to avoid FDL responsibilities. That is why we include provisions in our joint venture agreements to ensure that the needs of the FDLs are

2. Previous witnesses have told this Committee that NTIS has not been complying with Title 44's dissemination requirements. Yet your testimony indicates your intent to disseminate information you manage to depository libraries through GPO. Can you comment on this apparent contradiction?

Response: I did not hear the witnesses and do not know what they said or the context in which their comments were made. Generally speaking, Title 44 places the burdens of satisfying the needs of the FDLs with the agency that originates the document, unless the printing was handled by GPO. Historically, what little printing NTIS handled on behalf of other agencies was processed through GPO, so the FDL needs were accommodated. However, during the past year NTIS learned of authority to go directly to private printers or to work with a private partner to secure printing services as long as NTIS' revenues or the funds of a private partner were used to cover costs. This authority has been used for sales stock only a very few times in the past year. NTIS is committed to work with GPO to meet FDL needs each time the authority is used. NTIS also believes that it is good public practice to provide electronic access for the FDLs to its image files as soon as the technology is available.

3. In your testimony, you offer to provide electronic information to the depository libraries in exchange for an agreement by the libraries "not to release the electronic file outside the library."

How does this restriction comport with P.L. 104-13, which mandates agencies to refrain from restricting or regulating the use, resale, or re dissemination of public information?

Response: At considerable risk to its own sales revenue, but in the public interest, NTIS has generously offered the FDLs free electronic access to Government materials in its collection that are in image format. This should help them solve the problem of fugitive documents - i.e., documents that should have been sent to them through normal channels, but were not. We had no legal obligation to do this. Under these circumstances, we believe that the PRA does not preclude us from entering into contractual arrangements of this nature. The FDLs are, of course, free to obtain material from the agency that created it or other sources and do with it as they wish.

We would call to the Committee's attention the extremely even-handed discussion of the so-called "Fee vs. Free" issue undertaken by Task Force 10A at p. A-137 of GPO's recent report to Congress entitled Study to Identify Measures Necessary for a Successful Transition to a More Electronic Federal Depository Library Program. It points out that the ability of libraries to make information products available electronically "as broadly as they so choose (and their resources permit)" places feebased agencies "in financial vises," affects the willingness of agencies to cooperate with the FDL program, and "creates a lose-lose situation for the fee-based agency and the depository libraries." It is precisely due to such considerations that we are seeking to work out arrangements that would convert this to a "win-win" situation.

4. In your testimony, you mention specific documents that NTIS is making available to GPO for depository libraries. Is NTIS planning on providing all forthcoming printed or microform products to GPO for depository libraries?

Response: As I indicated in my testimony, whenever NTIS becomes the primary publisher of a government document through use of its joint venture authority or other arrangement, NTIS will assume the obligation of cooperating with GPO to assure that the needs of FDLs are met. In all other cases where NTIS simply acts as a repository and distributor, the depository responsibility lies with the originating agency.

5. <u>Title 44 has no conflict with private firms taking public government information, adding value, and charging fees for that publication, regardless of format. There may be Title 44 concerns when that publication is the only access point for the general public to obtain the basic information. Your testimony indicates the publications offered through NTIS are only available by</u>

purchase. How many documents does NTIS process which do not have a counterpart version available to the public on a no-fee basis?

Response: NTIS is rarely the only access point for government publications. Most titles added to its collection are available either through GPO's sales program or the dissemination programs of the agencies that created or funded the product. We have no way of knowing whether they charge fees. NTIS' value-added contribution lies in collecting, sorting, cataloging and maintaining information products long after they have gone "out of print" for the benefit of future researchers. As NTIS receives no annual appropriations and is required to provide bibliographic services on a self-sustaining basis, it charges appropriate fees.

6. Does NTIS impose royalties on information products (specifically, the electronic databases it maintains) sold to commercial redisseminators of government information? If so, how can this "copyright-type" practice be reconciled with Title 44's mandate for no-fee access through depository libraries, and the Paperwork Reduction Act's mandate that agencies refrain from "charging royalties for resale or redissemination of public information?"

Response: NTIS, which receives no annual appropriations, charges fees that are calculated to enable it to recover the costs of providing a Bibliographic Database service, now about \$3 million per year. This includes the cost of collecting, sorting, abstracting and all related services that enable the public to find the technical information they want conveniently. In the electronic age, the task of bringing order to chaos will become increasingly important and NTIS' costs in doing so must be underwritten.

NTIS' approach is to enter into a revenue sharing arrangement with potential redisseminators who can add value to the Database and increase its exposure to citizens who might not otherwise have knowledge about or access to it, plus a small standard fee. This, we believe, helps to achieve public policy goals of avoiding restrictive arrangements and encouraging multiple access points, while allowing us to continue providing this important service. The only practical alternatives are for (1) Congress to provide annual appropriations; or (2) for NTIS to shift costs to purchasers of other products and services; or (3) for NTIS to charge a much higher fixed fee.

It is important to recognize that the drafters of the PRA recognized that some agencies would have to wrestle with conflicting requirements. Thus, the Senate Governmental Affairs Committee (Senate Report 104-8 at p. 25) and the House Government Reform and Oversight Committee

(House Report 104-37 at page 27) in discussing these requirements, independently noted that "Federal agencies must develop approaches and make specific dissemination decisions that balance among competing forces and interests." I believe NTIS has done this successfully.

7. <u>Could you elaborate on some of the specific "copyright-type" concerns that earlier witnesses have mentioned, especially regarding full distribution rights for government purposes"?</u>

Response: Modern government documents often contain information (e.g., charts, graphs, quotations, etc.) that have been borrowed from other sources to enrich the content. This borrowed material is usually copyrighted by the original source so permission must be sought for government use. It is customary for the agency of origin to acquire permission for reproduction and distribution by the Government. Both NTIS and GPO must be careful to make sure that these agreements are in place. NTIS requires its partners to clearly label any material they may bring to a document from a non-federal source and to obtain proper use permits for the government.

The phrase "full distribution rights for government purposes" in a copyright context also refers to provisions agencies may include in their funding agreements with contractors that allow the agency to distribute a resulting information product even though the contractor will be allowed to retain a copyright on the product.

Many consumers of government information products mistakenly assume that all the material in a government publication was authored by government employees and is therefore not protected by copyright, and this is true whether the document was purchased from NTIS or GPO. That is why we find it necessary to put appropriate notices on our products. Our regulations implementing the American Technology Preeminence Act require that agencies ensure that the Government has appropriate dissemination rights before submitting material to NTIS.

8. You mentioned in your statement several categories of public information, and in the category of "temporary" information, such as may be found on agency homepages, you commendably have personnel scanning that information for possible sales. Would you also consider that information of general public access value through the depository libraries? Are there types of public government information that you do not believe fit in the definition of what should go to depository libraries for no-fee and long term access, and could you describe this type of information?

Response: NTIS' efforts to glean information from the Internet are concentrated on scientific and technical information of the sort that should be entered into our permanent collection. These documents will be stored permanently at NTIS and will be available electronically to the FDLs.

However, the vast majority of the information from government sources available on the Internet is of a temporary nature and is not in the form of discrete technical documents. Much of what may be found on federal agency home pages consists of program announcements, press releases, and material that is available through other sources, such as testimony, speeches, employment announcements, etc. Considerable discretion must be used here, but clearly some small portion is of sufficient merit to save. If the information is of value to academic or general public interests, but is not scientific or technical in nature, NTIS will not capture it.

9. We have asked earlier witnesses to assist in advising this Committee with definition of terms as we review Title 44. Would NTIS also provide this Committee its recommendations for defining the following terms: "Access" versus "individual ownership/use"; "Useable format"; "Basic" versus "valueadded" format/service; "Publish" versus "disseminate, produce or duplicate"; "Government information product"

Response: "I would define a 'governement information product' as a self-containned information unit prepared for public dissemination that has been formatted for final end use, issued, and paid for by the Government. As to the other terms, I would need to see the context in which they are being used."

10. NTIS apparently reviews public government information for its potential marketability and sales; National Archives receives public government information for its historical relevance and significance, while GPO and the depository libraries are Congress's review mechanism to ensure the general public has access to all three branches of the federal government's public information. These three perspectives are considerably different, although a good bit of government information no doubt meets all three definitions.

How would NTIS recommend Title 44 be amended to maximize the cooperation at the lowest cost between these three agencies, such that the general public, regardless of their geographic location or income level, is not disadvantaged in accessing information their taxes helped to produce?

Response: NTIS, the National Archives and GPO do indeed have different missions and funding sources that necessarily result in different

approaches. For example, GPO reviews public information for its value in its document sales program. It selects those Government books particular books that have high short term sales (best sellers) and when the stock of a particular book is exhausted it is no longer available for sale.

NTIS views public information for its long term value to technical researchers. Once NTIS enters an item into its collection it is available for sale forever. In fact, most of NTIS' collection of over 2 1/2 million titles have never had any sales. The National Archives views public information for its historical value. However, its primary role is not to provide ready public access but rather preservation.

The role of the depository libraries has traditionally been to provide free public access to the documents GPO furnished to them, predominately in microfiche. Except for the 50 regional depositories, they are not required to maintain these documents for an extended period. In fact most depository libraries operate on a selective basis and only get a portion of what the 50 regional libraries receive.

With the advent of the electronic age there is a need to reexamine all of the assumptions underlying Title 44. To ensure the lowest cost to the taxpayer and at the same time ensure that the public has the broadest possible access to Government information, we have several recommendations. First, Government information in electronic form must not be centralized as GPO has proposed. One of the big advantages of modern technology is the ability to link systems together that are separated geographically so that they operate efficiently as a "virtual" centralized system.

Second, the information provided to the depository library should only be provided in the format that represents the lowest cost to the supplying agency. Presently GPO keeps its costs in control by supplying the bulk of the information to the libraries in microfiche. In the future electronic or even paper could be less costly or more "appropriate" than microfiche but there should never be a requirement to provide information in more than one format. To do so would be to expand their current entitlement, which is to the basic information.

If information is available to depositories only online, no agency should be required to assume the added expense of also providing it to the libraries in hard copy. Special arrangements may need to be made to accommodate those libraries that lack the ability to access Government information online until all have equal access. However, the point is not

to increase the cost to all agencies just to accommodate a small number of depository libraries.

Finally, on the issue of long term storage of electronic documents, each agency that produces such information has the responsibility for record retention and each agency should have the discretion how best to accomplish it, whether GPO, the National Archives, NTIS or some other means.

11. NTIS agrees, when it accepts an agency's document for sale, to maintain that document in perpetuity. What is NTIS doing about migration of data and refreshing that data in electronic formats?

The NTIS repository contains only completed final documents or data sets. These are discrete elements in time and remain in our collection even when a new edition or version is released by the host agency. Many Government documents are produced in ongoing series or sets. Past issues remain available in our sales program. Generally electronic products are treated in a similar fashion with successive data tapes available in certain areas, often as collections.

12. NTIS has a major electronic investment in FedWorld, which also links to GPO Access. Will NTIS work with GPO and the depository libraries and the judicial branch to more effectively enable the general public to find and download electronic public government information?

Response: FedWorld was conceived as an electronic platform that other agencies could use to serve the information needs of their own constituents. Because of its comprehensiveness and popularity, it is especially well-suited for agencies that require high visibility. Increasingly, FedWorld is where people come first to find Government information. Nine cabinet agencies and more than sixty other agencies are hosted here. Most government bulletin boards and websites are linked directly. Both GPO Access and Thomas can be easily reached by the FedWorld customer, although linkages to judicial branch offerings are incomplete and need to be improved. Most of this material is available at no cost to the FDLs as well as the general public.

13. You have indicated to Committee staff your willingness to work with GPO in order to make those documents/databases not currently part of the Depository Library system available to the public through those libraries. The Committee appreciates your cooperation and the expanded access to government information such an effort will produce. When can the Committee

expect this effort to begin? What assistance can the Committee provide to assist in this project?

Response: NTIS stands fast with its offer of electronic access to image files for FDLs as I indicated at the hearing. Our technical schedule indicates that we should be ready to begin testing the system on a pilot basis by the end of September. We will contact GPO to coordinate this effort in the next few weeks. We plan to begin with an offer to the regional depositories, adding a few at a time to work out "bugs" at both ends. We are eager to get started.

14. The Committee is concerned that many of the NTIS products are disseminated in electronic format only. The Committee has received substantial testimony that libraries, in general, and depository libraries, specifically, are not yet technologically capable of receiving and servicing large amounts of government information electronically.

Since NTIS is statutorily required to receive, and maintain in perpetuity, at least one printed copy of all scientific and technical information, why can NTIS not make a printed copy of this information available to those depository libraries that are not technically updated in order to ensure public access?

Response: As a technical matter, NTIS is not required to maintain documents in any particular format. Nevertheless, it is very sensitive to the needs of its customers who do not want or cannot access information in electronic format. In the very near future, NTIS will have the capability of delivering an information product to a customer in whatever format the customer wants it, paper, microfiche or electronic. However, the basic issue, insofar as FDLs are concerned, is who will pay for the paper or microfiche copies that the libraries might like? NTIS cannot assume this expense but we would be happy to work out an arrangement with GPO to reimburse our costs from FDL program funds.

15. The Committee has received testimony that NTIS offers copyright, or copyright-like, protections to private sector entities in exchange for joint venture participation in both producing and procuring for dissemination certain government information. Please provide the Committee with specific examples of such provisions.

Response: NTIS has no authority to convey copyright benefits to anyone on government publications that are not available to copyright. We do not know what the phrase "copyright-like" protections means. Based on statements and testimony at the hearings, we believe that some witnesses may have misunderstood that federal information products often contain copyrighted materials within them that come from non-

government sources. When they do, it is appropriate to put suitable notices on them. This does not mean that copyright is being asserted by NTIS or "offered" to a joint venture partner where such rights do not exist.

16. It is the Committee's understanding that NTIS will procure the FIRMR/FAR in CD-ROM format. This product has been produced by GPO in the past, with appropriate copies made available to the public through the Depository Library system.

<u>Does NTIS intend to make this product available to Depository Libraries?</u>

If so, what, if any, restrictions does NTIS intend to place on the use of this product?

Response: NTIS intends to provide GPO with the same number of this CD-ROM that it had distributed to the depository libraries at no charge and without any restrictions on the depository libraries. We request no reimbursement from GPO/FDL funds here.



United States Department of the Interior

OFFICE OF THE SECRETARY Washington, D.C. 20240

SEP 2 0 1996

Senator John Warner Chairman Senate Committee on Rules and Administration Washington, D.C. 20510-6325

Dear Mr. Chairman:

Thank you for the opportunity to respond to the questions your committee has proposed. We appreciate the continued interest of the Senate Rules and Administration Committee with regard to these issues. We also welcome the opportunity to further define our views on these very important points. We consider this as an occasion for the Interagency Council on Printing and Publications Services to further assist in development of solutions involving future information management issues. We believe one of the most important responsibilities we have, as we work our way through this process, is to ensure that the American public maintains access to Government produced information.

Enclosed, you will find our responses to those questions. If your committee, or staff, should require further information or assistance in any way please contact me on (202) 208-5424.

Sincerely,

Roy M. Francis

Chairman

Interagency Council on Printing and Publications Services

M. Lianen

Enclosure

Public Access to Government Information in the 21st Century Senate Committee on Rules and Administration

Questions and Answers

You indicated in your testimony that the current centralized procurement system run by the GPO "drives the cost of printing down." Did you consider the 6% to 9% surcharge that GPO imposes for procurement services in your analysis, and if so, does that mean that the cost savings from GPO's centralized procurement is greater than the surcharge?

In making the statement "drives the cost of printing down" we are referring to the overall cost of printing procured through the GPO competitive bid system. Yes, the 6% to 9% surcharge is considered in that judgment. There may be no way of knowing if the true cost savings from the GPO's centralized procurement is actually greater than the surcharge. There have been occasions when an agency has received a bid on a project and then submitted the name of the contractor to the GPO so that contractor could be included on the GPO bid list. When bids for that project are received by the GPO, that contractor often is not the lowest bidder and, in fact, the bid price given through the GPO is often actually lower than the price originally given to the agency. This is because through the GPO competitive bid system, contractors realize they are in competition with other contractors so they will often offer a lower price. We would further point out that according to the GPO, approximately 25% of those contractors requested by agencies to be included on a GPO bid list are non-responsive.

In addition to cost, there are many factors to be considered in evaluating the <u>value</u> of a service. Because the GPO supports a competitive bid system of more than 12,000 prospective contractors, the price of printing is constantly being kept down due to the very nature of competition. It should be noted that a 9% surcharge is only used for the rare time critical request that requires immediate attention. Also, we are not sure that the surcharge should be an issue here. Please, keep in mind the fact that if another agency offers to provide printing procurement services to an agency, it is quite likely that the procuring agency will have to add a surcharge, or service charge, of some kind for their services as well. A surcharge, or service charge, is generally a necessary assessment to support a service function.

2. In your statement, you indicate that GPO offers many other benefits in addition to low-cost procurement. What are these benefits?

As stated above, if an agency was to undertake printing procurement on its own, it would not be practical, efficient, or cost effective to even consider hiring the additional number of FTEs that would be required to facilitate all of the functions required to handle printing procurements. From the outset, an agency Printing Officer must provide guidance in development of a project. After the project has been sufficiently prepared for procurement, the Printing Officer must then generate the printing specifications, coordinate distribution plans, develop a tentative schedule, ensure that funding is available, and prepare the requisition for procurement. At the time of submission for printing procurement, the GPO provides the services required to cover the remainder of the highly competitive printing procurement and post production processes. Those tasks include:

- reviewing printing specifications to ensure accuracy and completeness and for opportunities for savings through options;
- develop a more permanent schedule;
- advertising and soliciting bids;
- reviewing and awarding contracts;
- negotiate any changes to the original requirements after awarding the contract to ensure minimal financial impact;
- oversight of the project during production and distribution;
- handling quality control issues;
- handling billing between Government and the contractor;

Above an beyond the scope of simply procuring the actual printed product additional benefits afforded by the GPO include:

- providing cost estimates for anticipated services;
- providing legal counsel in dealing with contractual issues in relation to printing procurements;
- determining contractor responsibility by reviewing compliance on previous government work, quality performance with respect to quality level required;
- consultation in development of term contracts for printing procurement
- maintaining the Quality Assurance Through Attributes (QATAP) program;
- ensuring that copies of publications are made available to the American public through the Depository Library system;
- expending funds for copies of those publications being made available to the Depository Library program;
- administration of the Government publications sales program;
- performing site visits to educate agencies on printing procurement, and more recently in the use of the Internet to facilitate the use of the GPO ACCESS program, THOMAS, the Government Information Locator Service (GILS), and other government information providing systems.

3. Did the Department of the Interior request specific language in their FY97 appropriations bill to exempt the Bureau of Land Management (BLM) and the Fish and Wildlife Service (FWS) from Title 44, and if so, do you know why?

The Department of the Interior did not request specific language in the FY97 appropriation bill to exempt BLM and FWS from Title 44. No general exemption was sought. The President's 1997 budget proposed to continue a limited exemption from Title 44 for BLM and FWS that permits these two agencies to participate in printing of materials as part of cost-sharing or partnership agreements. This exemption has been included in the Interior and Related Agencies Appropriations Act for the past several years.

4. You recommend improvements in communication between client and contractor, with respect to color lnks, paper selection, and long lead times. In your opinion, is GPO making progress to accommodate these concerns?

The GPO has made great progress in providing improvements in communication between client and contractor. The long lead time required to procure printing through the GPO, however, is a difficult situation. Part of that problem rests with the originating agency and their preparation of a document for printing. Because of contractual obligations and tight schedules, there is very little room for error in printing specifications. Before a job solicitation begins, a complete review of the printing request and camera-ready copy, or electronic disks, are necessary in order to avoid possible conflicts and delays after awarding the contract. In addition, distribution of the product is reviewed in order to ascertain the most economical and efficient way of distributing the product. Also, a review is made by the Superintendent of Documents to establish potential sales and ensure distribution into the Depository Library system. All of these tasks are both necessary and time consuming. However, at the same there is continued pressure from the originating office to demand the fastest procurement possible. This is a difficult problem for which there may not be an answer. We believe that he GPO should continually look for ways to accelerate the process without affecting the result, and agencies must consider the lead time required when planning, creating, and preparing a document for printing.

With respect to color of inks, and paper selection, the GPO is most cooperative in attempting to provide what the customer requests. However, Federal agencies and the GPO are restricted by Title 44 U.S. Code, and the "Government Printing and Binding Regulations," which mandates the use of color inks and selection of papers to be used in Government publications. We believe that these restrictions should be reevaluated while considering any revision of Title 44.



96 SEP -6 PH 12: 21

United States Government Printing Office Washington, DC 20401

OFFICE OF THE PUBLIC PRINTER

September 5, 1996

The Honorable John W. Warner Chairman Committee on Rules and Administration U.S. Senate Room 305, Russell Office Building Washington, DC 20510

Dear Mr. Chairman:

Transmitted herewith are my responses to the questions for the record of the hearing conducted July 24, 1996, submitted to me by your letter of August 9, 1996.

Sincerely,

MICHAEL F. DIMARIO

Public Printer

Enclosure

cc: The Honorable Wendell H. Ford

Ranking Member

Committee on Rules and Administration

U.S. Senate

U.S. GOVERNMENT PRINTING OFFICE

Responses to Questions Submitted for the Record

by the

Senate Committee on Rules and Administration

Question 1. GPO's Superintendent of Documents and others in this series of hearings, have told this Committee about several compliance issues with Title 44, concerning both production and distribution, such as: the creation of "fugitive" documents, joint venture publishing agreements, and increasing executive branch in-house printing.

What is the magnitude of each of these problems for GPO, and are there other compliance issues that concern you?

Response. The magnitude of the "fugitive documents" problem can only be estimated. Agencies are required by law to provide GPO with copies of publications produced elsewhere than GPO for dissemination to depository libraries. When agencies do not comply with that requirement and fail to inform GPO of publishing activities conducted other than through GPO, the result is "fugitive" documents. But without an enforcement capability, GPO can only estimate the numbers of publications that evade the depository system based on published studies.

The most prominent of these was performed in the late 1980's, when the General Accounting Office (GAO) conducted a survey of agency publishing activities in cooperation with the Office of Technology Assessment (OTA). The results were published in the OTA report Informing the Nation: Federal Information Dissemination in an Electronic Age (October 1988). While the report stated in one place that GPO staff estimated that an additional 5 percent of all Federal publications included in the Federal Depository Library Program (FDLP) were "fugitives" (p. 140), this estimate was not supported by independent analysis. More telling was OTA's disclosure that fewer than 1 percent of all Defense Department (DOD) publications are included in the FDLP, and that only about half of all Federal civilian and independent agency publications are included in the FDLP (pp. 29-31), based on data developed by the GAO. While the report stated that security classification and narrow interest accounted in part for the absence of many DOD publications from the program, it did not suggest that this was the only reason, and no explanation was provided for the absence of approximately half of all other non-defense Federal publications.

Other studies submitted to a hearing before the Joint Committee on Printing in April 1991, on "Public Access to Government Information," also recounted high figures for fugitive documents, ranging from 50 percent upwards. One of these, for example, was a study by Cynthia Bower, "Federal Fugitives, DNDs and Other Aberrants: A Cosmology," published in *Documents to the People* (September 1989). Using the data developed by the GAO for OTA, Bower estimated that "fugitive documents outnumber depository documents by an average ratio of eight to one for the period 1983-87" (p. 121).

Another measure of the number of fugitive documents is provided by the National Technical Information Service (NTIS). Under its legislatively-mandated authority, NTIS seeks to collect one copy of every document published by executive branch agencies. NTIS asks agencies to indicate whether the document was included in the FDLP. In fiscal year 1995, NTIS collected more than 100,000 copies of titles, and approximately 50 percent were not in the FDLP. Of the estimated 50,000 fugitive documents, some 30,000 or 60 percent were published by the DOD. Obviously, security classifications were not a reason the DOD documents were excluded from the FDLP, since they were provided to NTIS. (Source: Dr. Donald Johnson, Director of the NTIS, in a phone conversation July 25, 1996 with Wayne Kelley, Superintendent of Documents. Dr. Johnson's figures were estimates and not actual counts.)

In terms of magnitude, joint venture publishing agreements do not represent a problem of the dimension of all fugitive publications. However, because these agreements have affected unusually high profile Federal publications, they constitute a serious impediment to public access.

As Superintendent of Documents Wayne Kelley testified before the Committee, a recent example of major importance is the electronic service created by the Bureau of Export Administration in the Commerce Department to provide up-to-date access to the Export Administration Regulations (EAR). This information is essential to businesses throughout the United States who wish to sell their goods and services abroad. The Bureau used \$100,000 in appropriated funds to pay NTIS to build the EAR database. But the bureau has denied depository libraries access to the electronic information. Dr. Johnson said in his prepared statement before the Committee on July 24, 1996, that the EAR data "would be kept current with updates, be fully searchable and easily accessible from both the telephone and World Wide Web." Dr. Johnson also said that NTIS had sold 100 subscriptions for the service at \$250 per year. Denial of the electronic EAR to depository libraries undermines public access to this information and defeats the expressed wishes of Congress that GPO make the FDLP a more electronic program.

Finally, while the magnitude of executive branch in-house printing can only be estimated, it is sizeable and it undoubtedly contributes to the problem of fugitive documents. As I reported to this Committee, only half of all Federal printing is performed by or through GPO. Data found in the Office of Management and Budget's FY 1996 President's Budget, Object Class Analysis (OMB, 1995), indicate that printing and reproduction (object class 2400) for the Federal Government totaled \$1.894 billion in FY 1995. However, we believe this amount double-counts the value of GPO's printing procurements, first in the amounts budgeted by each agency, and second in the figure reported for reimbursable obligations. If the double-counting is subtracted from total obligations, the result is \$1.377 billion. Of this amount, GPO handled an estimated \$775 million in printing and binding work, yielding a total value of Federal printing currently by-passing GPO of approximately \$602 million. This printing is most likely performed in-house by agency plants, since the printing industry has not indicated it is receiving printing contracts in excess of the value of the contracting being performed by GPO.

There are approximately 145 Federal agency plants operating today under the authority of waivers originally issued by the Joint Committee on Printing (JCP) pursuant to Title 44. In addition, there are most likely a number of other printing and duplicating facilities in operation, as OMB has found in the past (a 1983 joint OMB/JCP/GPO survey of agency in-house facilities disclosed over 1,000 Federal printing and duplicating facilities in operation world-wide; while this number has no doubt declined in keeping with the Administration's downsizing of in-house printing operations, there is no known up-to-date inventory of all Federal in-house printing and duplicating facilities). In addition, there are agency printing facilities that operate under their own statutory authority.

Question 2. Title 44 already prescribes that an agency which does not use GPO for its printing or procurement must still provide GPO copies for the depository library program.

What are your specific legislative recommendations to amend Title 44 so that compliance with dissemination requirements is enforced?

Response. Suggestions for changes to chapter 19 of Title 44, which I conveyed to the Committee by letter dated August 22, 1996, emphasize changes that would facilitate the transition to a more electronic FDLP. The suggestions resulted primarily from the Study to Identify Measures Necessary for a Successful Transition to a More Electronic Federal Depository Library Program (GPO, June 1996), and were reviewed informally with various members of the depository library community.

The growing use of electronic information creation and dissemination technologies allows new opportunities for cooperation between the publishing agencies and GPO to bring additional information products into the FDLP. The issue of compliance has been framed using the "publications" paradigm, in which copies are obtained automatically for the FDLP, using our Salaries and Expenses appropriation, when products are printed or procured through the GPO. The suggestions for legislative changes leave the responsibilities for paying for tangible products in place, but propose new language intended to:

- clarify that electronic Government information products are appropriate for inclusion in the FDLP:
- establish a baseline obligation for agencies to provide no-fee public access through the FDLP to their electronic information services which must, by law, be operated on a costrecovery basis;
- extend the authority of the Superintendent of Documents to expend appropriated funds to
 obtain copies of Government information products, when it can be demonstrated that nofee access would threaten the viability of the product or service; and

 establish a notification requirement which would facilitate the ability of the FDLP to identify Internet-accessible Government information products and link users to those products via the GPO Access service.

Question 3. No agency can be all things to all people, and GPO's depository library program seems to have strong support from all interested parties. These hearings have surfaced little dissatisfaction with the quality of GPO's in-house printing and centralized procurement system. Yet, there also seems to be frustration with GPO on many fronts — causing in some cases, requests for waivers from Title 44 requirements, non-compliance with Title 44, and legislative recommendations for rather radical changes to Title 44 beyond what might be necessary to bring government information into the digital age.

We recognize that GPO tries to "fill" in-house printing days with executive and judicial publications when Congress is not in session. However, one area of concern is highlighted by a GAO study which concluded that GPO in-house printing can cost agencies up to 50% more than private printing. Would you please elaborate on the GAO study, and your efforts to reduce your in-house printing costs as well as your average lead-times and surcharges on agencies for procurement?

Response. The GAO study to which you refer was published in September 1990 (GAO/GGD-90-107). Unfortunately, its conclusions were accepted by a previous GPO administration despite the presence of serious errors of fact and analysis. These defects, in my view, render this report largely unusable as a basis for legislative reform of Title 44.

The GAO report stated that "high administrative and high labor costs--which GPO estimates are 50 percent more than the printing industry as a whole--are passed on to GPO customers" (p. 4), and "GPO estimated that...its average hourly earnings were about 50 percent higher than the printing industry as a whole" (p. 26). Neither of these claims was attributed to a specific GPO source and neither was independently verified by the GAO. Using these statements, the GAO stated "on the basis of limited comparisons, GAO estimated that GPO's \$150 million of Central Office printing in fiscal year 1989 might have been procured from commercial printers for as little as \$75 million" (p. 3). In fact, there was no analysis in the report to substantiate this claim.

As I stated in my testimony before the Committee, GPO is not comparable to any other printing firm in the United States, based first on the types of work GPO is required to do (book and job work, newspaper printing, and a wide range of other work). Most printers specialize in one kind of work; GPO must maintain expertise in many. The GAO report itself admitted that "GPO's unique wide range of in-house plant operations may not be strictly comparable to private industry activities" (p. 37). Second, as a Government agency, GPO is required by law and regulation to maintain many expensive programs and operations (Inspector General, EEO, etc.) that private sector companies are not required to have. Third, GPO's employees are entitled by law to organize and have union representation. Most private sector companies, because of their size, are unorganized.

The GAO report did not independently verify the claim that GPO wages are 50 percent higher than private sector wages. Yet the fact is that, compared to other organized workplaces in the Washington, DC, metropolitan area (one of the highest cost-of-living areas in the Nation), GPO's wages are comparable. Compositors' wages at the Washington Post for both day and night shifts, for example, when averaged against GPO's are slightly higher; this fact needs to be weighed against data indicating that an average issue of the Congressional Record contains 4 to 6 times the amount of type as in an average metropolitan daily newspaper. Wage comparisons for press and bindery work with other area printing wage contracts also indicate much smaller disparities than has been alleged.

The GAO's allegation that GPO's wage costs make the costs of in-plant printing excessive was not verified by analysis. The in-house printing that the GAO claimed could be procured at half the cost included all congressional work, yet no studies that I am aware of have ever claimed that congressional printing (including pre-press, press, binding, and delivery) could be procured from the private sector under the same conditions and on the same schedules at less cost. Indeed, there have been several suggestions on the record that this printing may cost more if procured, as was the case before the GPO was created. Congressional printing represents approximately half of all in-house work. Another quarter of all in-house work is for the Federal Register and related products, passports, postal cards, the U.S. Budget, and other essential Government products. As with congressional work, I do not know of any studies that show these products could be produced under the same conditions at less cost in the private sector. For the remaining quarter of in-house work that is procurable—e.g., the work that is used to fill in between peak congressional workloads—GPO has for many years discounted the in-house price of much this work to comparable procurement prices. With these facts in mind, it is difficult to substantiate the GAO report's claim that all in-house printing could be procured at half the cost.

When the GAO report was published, it contained a series of recommendations to be fulfilled. GPO fulfilled these recommendations on a timely basis. As I reported to this Committee in February 1994, in October 1993 the GAO closed out all remaining follow-up reporting on the 1990 study, stating that GPO had fulfilled all of the GAO's recommendations contained in the study. The continued use of the study to characterize GPO's current operations, therefore, seems inappropriate.

GPO has undertaken a significant effort to reduce costs since I took office in February 1993. Since that time, this agency has downsized by approximately 1,000 positions, yielding nearly \$50 million in savings. This cost reduction effort permitted us to hold the line on our in-house printing prices for more than six years--from January 1990 until May 1996, an unprecedented period of price stability. At the same time, we have undertaken a number of important efforts to modernize operations, including the acquisition of new presses. Most importantly, we now offer a sophisticated electronic information dissemination system, providing no-fee access to both Government information for the public and to printing procurement opportunities for private sector printers.

With regard to printing procurement, the claim made before this Committee that our procurement surcharge reflects "GPO overhead" tends to over-generalize. As my statement notes (pp. 10-11), the surcharge covers a wide range of services, including developing contract specifications; competling, awarding, and administering contracts; providing quality control services; providing voucher examination and payment services; and providing legal advice on contracting and contract dispute resolution services through GPO's Board of Contract Appeals. The service also covers the selection of publications for GPO's FDLP and documents sales programs, as well as the maintenance of a procurement program to guarantee full and open competition on all procurement jobs. All of these services are covered by GPO's 6 percent surcharge (9 percent only on rush orders, but since most contracts can handle quick turnaround work, the 9 percent surcharge is infrequently used). For agencies to provide the same services themselves would cost at least twice the current surcharge, according to printing industry data.

Procurement lead times can also be minimized through the use of GPO's direct deal term contracts. These contracts allow agencies to deal directly with private sector printers, obviating the concern that agencies have no "control" over their printing procurements. Direct deal contracts allow for the decentralized procurement of printing by the agencies under a centrally managed contracting system that ensures economy, offering a sound solution to demands for increased localized control.

Question 4. In your testimony, you cite previous Public Printers who concur with you that privatizing GPO's Congressional printing operations would be more costly than current practices. You go on to say that "widespread competition for Government printing jobs is a key factor to achieving any savings."

Title 44 allows GPO's in-plant operations not to compete for government printing -- your statement might be read to imply that the lack of competition for work by GPO itself may be resulting in higher costs. The desire for more flexibility by GPO in meeting client needs has contributed to the suggestion that Title 44 be amended to mandate GPO's in-house printing be equivalent not just in quality, but also in cost and timeliness with the in-house operations of other agencies, or the private sector. What would such an amendment do to the present plans and operations of GPO? Please comment.

Response. Widespread competition for Government printing jobs is indeed a key factor in generating savings where the printing is deemed to be procurable. As my statement clearly says (p. 5), GPO fully supports the procurement of printing that is commercially procurable, e.g., purchasable from the private sector on the same terms of timeliness and quality and under the same conditions of control at less cost. Where congressional printing and other essential Government printing is concerned, close control--such as the hands-on involvement of the congressional and committee leadership in determining printing requirements, changing work priorities, editing and revising documents, and so on--is a paramount factor. Based on long experience with Government printing, we have serious concerns about whether any savings can be achieved by procuring congressional printing and other essential products.

My reference to the need for widespread competition was in my discussion of how limited the competition for congressional work is likely to be. The sheer volume of congressional printing would preclude all but a few of the very largest printing firms in the United States from competing for this work, since the average firm employs just 20 people, according to printing industry estimates. Without widespread competition, the potential to achieve savings from the procurement of congressional work is not likely, and in fact the costs of this printing would most likely rise above current levels.

My statement further notes that an amendment to Title 44 would not be needed to require GPO to contract out the work we currently perform in-house, primarily congressional work and work associated with the Federal Register, passports, postal cards, the U.S. Budget, and related publications. Approximately 75 percent to 80 percent of all Government printing is now contracted out, and no change was made in the law to accomplish that. However, I am skeptical that the Government can realize savings on majority of the work currently performed in-house by contracting it out.

As my statement notes, the primary question is whether Congress wants to relinquish the control over its own printing that it currently enjoys by contracting it out to the private sector. This printing is essential to the conduct of the Nation's legislative business. As I noted, within the context of history, contracting out congressional printing, as well as other essential Government products such as the Federal Register, the U.S. Budget, and passports, represents less a movement toward reform than it does a revisitation of the past, when Government printing was the exclusive province of private printers. As history discloses, contractors frequently failed to perform on time or even to complete the work, and generated enormous costs (for their time). Congress remedied these problems with the creation of the GPO in close physical proximity and under close congressional scrutiny. Government performance of this critical work also parallels the performance by many other governments of their legislative printing both among the 50 States and around the world.

GPO has taken a variety of measures, including equipment back-ups, personnel contingency plans, and paper storage, to ensure that critical Government work is delivered on time when it is needed. GPO has inclement weather emergency plans to ensure the plant is always staffed and operating when Congress is in session, and a variety of security measures are in place to prevent the unauthorized disclosure of highly important congressional and executive work. In November 1995, at the specific request of the Senate Majority Leader and the Speaker of the House of Representatives, GPO kept its production staff on duty during the Government-wide budget shutdown to provide essential printing services. As will be recalled, most Government contractors were forced to cease operations during the budget shutdown due to lack of funding authority by the contracting agencies to continue operations. These factors must be weighed in any decision to remove the responsibility for this critical work from GPO.

<u>Question 5.</u> Judge Lamberth testified in the July 24 hearing about the Judicial Conference's ideas on public access and dissemination. What does GPO think is the most reasonable way to

encourage judicial branch cooperation with Title 44's dissemination to depository libraries, and what legislative changes might improve that cooperation?

Response. The judiciary is required to participate in the FDLP, but it has a longstanding waiver from the requirement to utilize GPO's printing resources. This has resulted in some Government information products not being automatically included in the program, and a lack of consensus on appropriate methods of dissemination.

As is the case with most components of the Government, an increasing quantity of the information produced by the judiciary has migrated towards electronic formats and dissemination through electronic information services. This electronic environment presents new opportunities for cooperation between GPO and the judicial branch. To assure public access to online products at Government Internet sites, many of which have not been included in the FDLP in print formats, GPO has suggested several changes to chapter 19 of Title 44 which would facilitate cooperation with the components of the Government. In particular, we have proposed the following new language for §1902:

The Superintendent of Documents...shall ensure program libraries and general public access to Government information products available via Government electronic information services.

Our suggested legislative changes provide the means for the FDLP to increase the amount of judicial electronic information made available by either obtaining source data files and mounting them on the GPO Access service, or "pointing" or directing users to this information at judicial Internet sites.

Access to Government information products through the GPO Access service would be available at no cost to program libraries. If comprenents of the Government are required to charge for electronic services at their sites, our suggested changes to Title 44 require that "each program library which requests access to the service will have access at no cost for at least one simultaneous user."

Our suggested changes also require that when this information is substantially modified or access to it is terminated, components would offer the information to GPO, which would in turn coordinate a distributed system for permanent and ongoing access to the information through the FDLP.

Question 6. The Committee has been told by numerous witnesses that one of the most serious problems of decentralizing printing procurement is the creation of "fugitive documents." In order to understand the magnitude of this problem, and develop meaningful legislative reforms, it would be helpful to the Committee to have concrete statistics on the number of fugitive documents which currently evade the depository library system. Can GPO provide this information to the Committee?

Response. This information is provided in response to question number 1, above.

QUESTIONS FOR MR. SCHROEDER

- You began to answer this question during our July 24 hearing. As requested during the hearing, please explain for the record, what court cases, statutory changes or other changes that occurred between 1993 and 1994, when Mr. Dellinger wrote two memoranda finding Title 44 met constitutional muster, and May 31, 1996, when Mr. Dellinger found portions of Title 44 unconstitutional.
- 2. The May 31 opinion from your office concluded that Congress retained control of GPO. This conclusion was reached despite the fact that the head of GPO can only be removed by the President, and despite the fact that section 1101 of Title 44 specifically mandates that the Public Printer execute the printing and binding ordered by the President.

Please explain the basis for claiming that the legislative branch through GPO controls the "timing and production" of executive branch printing, particularly given the fact the Public Printer works for the President.

- 3. You stated in your testimony that "Congress can work its will . . . through legislation" but that "Congress's authority to control the GPO through non-legislative mechanisms should be repealed." Would you undertake a prompt review of this entire issue, and send us your best advice as to exactly what sections of Title 44 need to be amended to make that statute Constitutional?
- 4. What language would DOJ recommend that would result in constitutional enforcement of the printing, procurement and dissemination requirements of Title 44?
- 5. Based upon the responses of OMB at the hearing, it is the Committee's understanding that the Administration intends to voluntarily comply with Title 44 for some period of time during a review, regardless of the constitutional issues raised by the May 31, 1996 Department of Justice memorandum. What action does the Department of Justice intend to take to ensure that agencies do not rely on the May 31, 1996 memorandum as a basis for circumventing Title 44 during this review period?

(Witness did not respond.)

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